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1. The first part of the paper is devoted to a general discussion of the problem of the existence of a solution of the system of equations (1) for a given set of initial conditions. It is shown that the system of equations (1) has a unique solution for a given set of initial conditions if the functions $f_i(x, y, z, t)$ are continuous and satisfy the Lipschitz condition with respect to the variables x, y, z .

2. In the second part of the paper, the problem of the stability of the solution of the system of equations (1) is considered. It is shown that the solution of the system of equations (1) is stable with respect to the initial conditions if the functions $f_i(x, y, z, t)$ are continuous and satisfy the Lipschitz condition with respect to the variables x, y, z .

3. In the third part of the paper, the problem of the asymptotic stability of the solution of the system of equations (1) is considered. It is shown that the solution of the system of equations (1) is asymptotically stable with respect to the initial conditions if the functions $f_i(x, y, z, t)$ are continuous and satisfy the Lipschitz condition with respect to the variables x, y, z .

4. In the fourth part of the paper, the problem of the boundedness of the solution of the system of equations (1) is considered. It is shown that the solution of the system of equations (1) is bounded with respect to the initial conditions if the functions $f_i(x, y, z, t)$ are continuous and satisfy the Lipschitz condition with respect to the variables x, y, z .

5. In the fifth part of the paper, the problem of the periodicity of the solution of the system of equations (1) is considered. It is shown that the solution of the system of equations (1) is periodic with respect to the initial conditions if the functions $f_i(x, y, z, t)$ are continuous and satisfy the Lipschitz condition with respect to the variables x, y, z .

6. In the sixth part of the paper, the problem of the ergodicity of the solution of the system of equations (1) is considered. It is shown that the solution of the system of equations (1) is ergodic with respect to the initial conditions if the functions $f_i(x, y, z, t)$ are continuous and satisfy the Lipschitz condition with respect to the variables x, y, z .

7. In the seventh part of the paper, the problem of the recurrence of the solution of the system of equations (1) is considered. It is shown that the solution of the system of equations (1) is recurrent with respect to the initial conditions if the functions $f_i(x, y, z, t)$ are continuous and satisfy the Lipschitz condition with respect to the variables x, y, z .

7

PARLIAMENTARY CASES

RELATING TO

RAILWAYS, &c.

DETERMINED BY

THE SELECT COMMITTEES OF THE HOUSES
OF PARLIAMENT

IN THE SESSION 1846.

BY

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AND

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BARRISTERS AT LAW.

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1847.



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P R E F A C E .

THE design of these Reports is to give the more important decisions of Committees on Private Bills, illustrative of the course of practice, and of the general principles of the law of Parliament. Although the proceedings on Railway Bills are intended to form the principal subject of the Reports, yet it is not proposed to exclude all notice of other similar undertakings, such as Docks, Canals, and the like, when they offer matter of the requisite character and importance.

The Reporters are aware that a series of cases of this nature is open to the objection, that the decisions which they profess to record have not that uniform and consistent character which gives weight and authority to the judgments of the ordinary tribunals of this country. They are equally aware that an effectual remedy can hardly be devised for this state of things while the constitution of these Committees remains in its present state; as "it is almost impossible to hope that from the separate and unconnected proceedings of bodies whose existence commences and terminates with the single occasion of each

particular railway, there should issue any distinct system of sound general rules, uniform in their foundation, and varying, where they do vary, in a strict and constant proportion to the actual peculiarities of the case¹." Even now, however, there is plainly discernible in the proceedings of these bodies a desire to establish some more fixed principles of decision, and a consequent disposition to refer to precedent,—a disposition which cannot but derive fresh strength from the operations of a variety of concurrent causes, all manifestly tending to such a result; namely, a keener and more accurate perception, both in and out of Parliament, of the evils of the fluctuation and uncertainty attending the present system, the accumulating experience of successive Sessions, and a growing sense of the importance of the results.

It is under these circumstances that the Reporters have ventured to offer to the Profession the present collection of cases, which they hope may be found to afford a somewhat fuller and more authentic record than any heretofore existing of the more important decisions of these Committees.

It is the intention of the Reporters to comprise, in a separate volume, the transactions of each year, including such new resolutions, &c. of either House of Parliament, as may affect the practice before Committees in any important particular. The present number, accordingly, will

¹ 5th Report of Select Committee of the House of Commons on Railway Legislation, 1844.

shortly be followed by another, which will complete the series of cases for 1846.

In succeeding Sessions the Reporters trust that they shall be able to keep pace, to a great extent, with the proceedings of the Committees.

In conclusion, the Reporters feel it to be due to the Profession, and indeed to themselves, to state that, owing to the great number of Committees sitting at the same time during the last Session, their personal attendance was necessarily confined to a limited number of cases ; in all other instances they have availed themselves of the best contemporary sources of information to which they could obtain access, and in no case have they ventured to publish anything which has not had the sanction of Counsel engaged in the case.

TEMPLE,

January, 1847.

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ORDERS AND RESOLUTIONS
OF THE
HOUSE OF LORDS.

SESSION 1846.

February 6.—That this House will not receive any Petition for a Railway Bill after *Monday* the 23rd day of this instant *February*.

February 10.—That this House will not receive any Petition for a Private Bill after *Tuesday* the 21st day of *April* next.

That this House will not receive any Report from the Judges, upon Petitions presented to this House for Private Bills, after *Thursday* the 18th of *June* next.

February 6.—That such portion of the Standing Order No. 224 as requires from the promoters of Railway Bills a deposit of One-tenth of the amount subscribed, shall be suspended with respect to all such Railway Bills as shall commence in the House of Lords during the present Session : That no such Railway Bill shall be read a first time in this House unless a deposit of One-twentieth part of the amount subscribed shall have been made on or before the 6th of *February*, and no such Railway Bill shall be read a third time until a further deposit of One-twentieth part of the amount subscribed shall in like manner be made.

February 13.—That Standing Order No. 220 be altered in the following particulars :

That the Service of every Application required to be made to the Owners or reputed Owners, Lessees or reputed Lessees, and Occupiers, by the Fourth Paragraph of the said Standing Order, may, unless a Petition complaining of the Want of due Service of such Application

shall have been referred to the Standing Order Committee, be proved by the Evidence of the Agent or Solicitor for the Bill, stating that he gave directions for the Service of such Application in the manner and within the time required by the Standing Orders, and that he believes that such Application was so served ; but in case the Standing Order Committee shall not be satisfied with the Evidence of the Agent or Solicitor, the Service of such Application shall be proved in the usual manner.

That, as respects all Railway Bills which shall commence in this House during the present Session of Parliament, the following Standing Orders shall be altered in the particulars hereinafter mentioned :

That Standing Order No. 219 be altered in the following particulars :

That on the Bill being reported to the House from the Committee on the Bill, or at any time previously, on the Petition of the Parties to such Bill, or any of them, the Bill shall be referred to the Standing Order Committee, which shall inquire whether the Standing Orders, the Compliance with which is directed to be proved before or reported by the Standing Order Committee previously to the Third Reading of the Bill, have been complied with ; and the Committee shall report on the matters referred to them, in the same manner as they are directed to report on other matters referred to them by the Standing Orders :

That Five clear days' Notice be given of such Meeting of the Committee, and that it be proved to the satisfaction of the Committee that the Standing Orders had been complied with Five clear days before such Meeting of the Committee :

That the Standing Order Committee shall not meet to consider the compliance with such of the Standing Orders as are directed to be proved before them, until after the expiration of Seven clear days from the Presentation of the Petition if the Bill relate to England, or until after the expiration of Ten clear days if the Bill relate to Scotland or Ireland :

That every Petition complaining of a non-compliance with such of the Standing Orders as are directed to be proved before the Standing Order Committee subsequently to the First Reading of the Bill shall be presented Three clear days before the Meeting of the Committee to consider such Standing Orders :

That Standing Order No. 220 be altered in the following particular :

That no Bill commencing in this House, and empowering any Company already constituted by Act of Parliament to execute any Work other than that for which it was originally established, shall be read a Third Time, unless the Committee on Standing Orders shall have spe-

cially reported that the Requisitions contained in Paragraph No. 5 of such Order have been complied with.¹

That Standing Order No. 224 be altered in the following particulars :

That it shall be proved to the Satisfaction of the Standing Order Committee that a sum equal to One-twentieth part of the amount subscribed has been deposited, in the manner required by the said Standing Order, on or before the Sixth day of *February* instant : and it shall likewise be proved to the satisfaction of the said Committee, before the Third Reading of such Bill, that a further Sum equal to One-twentieth part of the amount subscribed has been deposited in like manner ; and that the Amendment made to the said Standing Order on the Sixth instant be further amended, by substituting the word "Second" for the word "First."

That Standing Order No. 225 be altered in the following particulars :

That it shall be sufficient if the Proof required to be given by the last-mentioned Standing Order be adduced before the Standing Order Committee at any time previous to the Third Reading of the Bill :

That all the Standing Orders applicable to Railway Bills, except such of them or such part of them as are altered by or inconsistent with the aforesaid Standing Order, shall apply to the Railway Bills commenced in this House during the present Session of Parliament, and to the Proceedings on such Bills.

March 12.—Standing Order No. 233, Order of the Day for taking into consideration the said Standing Order, in order that the Second, Third, and Fourth Sections thereof may be repealed, and the Lords summoned, read : Standing Order considered accordingly, and said Sections vacated.

March 19.—RAILWAY BILLS. The following Resolution (viz.) "That no Petition praying to be heard upon the Merits against any Second Class Railway Bill shall be received by this House, unless the same be presented on or before the day on which such Bill shall be read a Second Time," was *considered* (according to order), and *agreed to* ; and ordered to be added to the Roll of Standing Orders.

Ordered,—That the above Order shall come into operation on and after *Thursday*, the 26th instant.

March 23.—RAILWAY BILLS. The following Standing Order, (viz.) "That a Copy of every Railway Bill, as proposed to be amended in the Committee, shall be deposited in the Board of Trade, Two Days before the same shall be reported to the House ; and also a Copy of every Bill, as amended in the Committee, shall be deposited at the Board of Trade

¹ See Order of *May 5, post*, viii.

Two Days before the same shall be read a Third Time in the House," was *considered* (according to order), and *amended*.¹

NOTICES TO PARLIAMENTARY AGENTS.

All parties proposing to appear before any Committee on a Local and Personal Bill, upon any Petition referred to such Committee, are desired, previously to the meeting of the Committee, to enter an Appearance, by themselves or their Agents, in the Book kept in the Committee Clerk's Office for that purpose; and the Appearance of any party before such Committee on any day will be held to continue each subsequent day on which the Committee shall sit, unless an Entry be made in the above-mentioned Book that such Appearance is discontinued; but such Party shall have liberty to re-appear at any time during the sitting of such Committee by again entering an Appearance in the said Book.

J. W. BIRCH,
Clerk-Assistant.

The Clerk-Assistant directs that Eight Copies of every Local and Personal and Private Bill originating in this House (if printed) shall be delivered at the Office of the Clerk attending the Table of the House, upon the First Reading of the Bill.

J. W. BIRCH,
Clerk-Assistant.

The Chairman of the Committees directs, that the Agents, on the day on which they give Notice of the Second Reading of a Railway Bill, do give in to Mr. Adam a written Statement as to whether the Railway is a competing Line or not, and, if it be a competing Line, the Name or Names of the Railway or Railways, with which it competes, whether it is opposed or not, and the earliest day upon which the Promoters will be ready for the Committee on the Bill: which Statement is to be signed by the Agent for the Bill.

SHAFTESBURY,
Chairman of Committees.

¹ The following is the Form of the Order as amended :—

"That a Copy of every Railway Bill, as amended in the Committee, shall be deposited at the Board of Trade Three Days before the same shall be read a Third Time in the House."

Petitions relating to any Railway or other Private Bill, and intended for Presentation by the Chairman of the Committees, must be endorsed with the Name or Description of the Parties petitioning, and stating whether in favour of or against the Bill, and if praying to be heard by Counsel or Agents ; together with the Name or Short Title of the Bill to which such Petitions relate, and also the Name of the Agent presenting the said Petitions ; and such Petitions must be left with Mr. Adam *before Three o'clock* of the day on which they are intended to be presented.

SHAFTESBURY,
Chairman of Committees.

April 27.

RESOLUTIONS RESPECTING RAILWAY BILLS.

I. That this House will not read a Third Time any Bill to empower any Company (whether intended to be incorporated by such Bill or already incorporated by Act of Parliament) to construct a Railway, unless Three clear Days before the Third Reading there shall have been deposited at the Office of the Clerk of the Parliaments, there to be open to the Inspection of all Parties, a Certificate signed and authenticated in manner hereinafter mentioned, and comprising the Particulars hereinafter expressed, and stating the following facts, viz. :

1. That a Copy of the Bill, in the state in which it may have been at the time before either House of Parliament, was submitted to the consideration of a Meeting of the Holders of Scrip, or of Bankers' Receipts entitling the parties to claim Scrip, of the Company, or (in case of a Company already incorporated) of the Shareholders or Stockholders of the Company, specially called for that purpose.

2. That such Meeting was called by Advertisements inserted Once in each of Two consecutive Weeks in the *London Gazette* (if the Railway be an English Railway), or in the *London* and the *Edinburgh Gazettes* (if the Railway be a Scotch Railway), or in the *London* and the *Dublin Gazettes* (if the Railway be an Irish Railway), and in each case in at least Three London daily Newspapers, and not less than Three Times in each such Paper, in each of such Two consecutive Weeks ; and in case the Railway be a Scotch Railway, not less than Twice in each of Three Edinburgh Newspapers, in each of such Two consecutive Weeks ; and in case

the Railway be an Irish Railway, not less than Three Times in Two Dublin daily Newspapers in each of such Two consecutive Weeks.

3. In the case of the Company being intended to be incorporated by the Bill :—That such Meeting was constituted of Persons producing thereat Scrip or Bankers' Receipts as aforesaid of the Company, representing not less than One Third Part of the whole Capital proposed to be raised by the Company under the Bill, (such Scrip having been actually issued, or the Deposits in respect thereof having been paid, or such Receipts bearing Date before the 31st of March in the present Year).

4. In the case of the Company being already incorporated :—That such Meeting was held, except so far as is herein otherwise provided, according to the Constitution of the Company, and was constituted of Shareholders or Stockholders thereof, competent to vote at the Ordinary Meetings of the Company, and representing, either personally or as Proxies, not less than One Third Part of the whole Capital or Stock of the Company.

5. That at such Meeting the Bill was approved of by Persons producing thereat Scrip or Bankers' Receipts as aforesaid equal to at least Three-Fifths of the total Amount of Scrip or Bankers' Receipts as aforesaid produced at the Meeting ; or, in the case of a Company already incorporated, by Three-Fifths at least of the Meeting, the Votes being given and computed according to the Constitution of the Company.

6. That those cases in which the Bill is promoted by the incorporated Company, but the Parties interested are Holders of Scrip which it is proposed shall be converted into Shares or Stock, or otherwise become Portion of the Interest of the incorporated Company on the passing of the Bill, and contingently only on that event, shall, for the purposes of these Resolutions, be deemed to be cases of Companies not yet incorporated.

II. That, for the purposes of these Resolutions, it shall be competent for the Chairman of any Meeting called in pursuance thereof, in the event of the above prescribed Quorum of Scrip, Bankers' Receipts as aforesaid, Shares, or Stock (as the case may be) not being represented at such Meeting, to cause the Votes of the persons constituting the said Meeting, approving or not approving of the Bill, to be taken and recorded, and then to adjourn the same to some day, hour, and place to be declared by the Chairman, such day not being less than Three Days, and not more than One week, from the original day of Meeting, and such day, hour, and place being in the meantime advertised Twice in

each of Three London daily Newspapers, or Twice in the Edinburgh or Dublin Newspapers, in the case of Scotch or Irish Railways ; and at such adjourned Meeting it shall also be competent to the Chairman thereof to cause to be taken and recorded the Votes of such of the persons constituting the same as have not voted at the original Meeting ; and the total amount of Votes given at the original and adjourned Meeting shall be received as if given at one and the same Meeting.

III. That such Certificate shall also comprise, in a Tabular Form, the following Particulars :—

1. The Day, Time, and Place of the Meeting, and of the adjourned Meeting (if any).
2. The Dates of Insertion of the Advertisements for the Meeting, and the Names of the Newspapers in which they were inserted :
3. The Names and Addresses of the persons producing Scrip or Bankers' Receipts as aforesaid at the Meeting, according to the Statements of such persons ; or, in the case of a Company already incorporated, the Names and Addresses of the Shareholders or Stockholders present at the Meeting, according to the Register Book of Names and Addresses.
4. The denoting Numbers of the Scrip, and in the case of Bankers' Receipts, the Names of the persons from whom the Deposit is therein stated to be received, and the Amount of the Scrip and Receipts respectively produced by the persons so producing the same at the Meeting ; or, in the case of a Company already incorporated, the respective Amounts of Shares or Stock held or represented by the Shareholders or Stockholders attending the Meeting.
5. The fact of the Approval or Non-approval of the Bill (as the case may be) by the several Persons producing Scrip or Bankers' Receipts at the Meeting, or by the several Shareholders or Stockholders attending the Meeting.
6. The total Amount of Scrip and Bankers' Receipts produced at such Meeting, and the Amount thereof produced by the persons approving of the Bill ; or, in the case of a Company already incorporated, the total Amount of Shares or Stock represented, either in person or by proxy, at the Meeting, and the Amount thereof so represented by persons approving of the Bill.
7. The total Amount of the Capital proposed to be raised by the Company under the Bill ; or, in the case of a Company already incorporated, the total Amount of the Capital or Stock of such Company.

IV. That such Certificate shall be signed by the Chairman of the Meeting and by One of the Solicitors of the Company ; and the authenticity of such Certificate shall be verified by the Signature of the Parliamentary Agent depositing the same.

V. That these Resolutions shall not apply to any Bill now ready for a Third Reading.

May 5.—That it shall not be necessary for the purposes of any Bill in respect of which a Meeting shall have been called by, or on behalf of, a Company already incorporated by Act of Parliament, in pursuance of the Sessional Order of this House, bearing date the 27th *April*, 1846, to prove a compliance with the requisitions contained in paragraph No. 5 of the Standing Order of this House No. 220.

July 30.—Standing Order No. 223 considered according to Order and amended by inserting the words “ A description of all the Termini together with ” after the words “ That all notices shall contain ” in the first sentence.¹

¹ For further alterations in the Standing Orders, which it has been thought unnecessary to notice specifically, see Standing Orders 220, s. 6 ; 223, ss. 2, 3, 7, and 8.

ORDERS AND RESOLUTIONS
OF THE
HOUSE OF COMMONS.

SESSION 1846.

February 6.

1. That, with respect to any Railway Bills which shall be brought from the House of Lords during this Session, this House will not insist on their privilege with regard to the Clauses fixing and regulating Rates and Tolls in such Bills.

2. That, with a view of affording early and increased means of employment in Ireland, it is expedient to give facilities for the early consideration of Irish Railway Bills; and that, for the attainment of this object, all such Railway Bills should, in the present Session, commence in the House of Lords.

3. That all Bills which compete with or ought to be considered in connection with any Bills, the promoters of which shall prove themselves entitled to the privileges agreed to be granted in certain cases by the Resolutions of this House of the 7th *July* last, shall commence in the House of Lords.

4. That the parties promoting Railway Bills which, by the above Resolutions, are to commence in the House of Lords, may (notwithstanding any proceeding respecting such Bills in the House of Lords) prove before the Committee on Petitions of the House of Commons that they have complied with the Standing Orders of this House, and the Report of such Committee shall be ordered to lie on the table. If the Committee should report that the Standing Orders have not been complied with, their Report shall be referred to the Committee on Standing Orders, whose Report shall be ordered to lie on the table.

5. That when a Railway Bill shall have been brought from the Lords, it shall be read a first time, and referred to the Select Committee on

Petitions for Private Bills, who shall report whether the Standing Orders have been complied with, or whether any Report with reference to substantially the same Bill has been previously laid on the table of the House.

February 12.

1. That a Committee of Five Members be appointed, to be called the Classification Committee of Railway Bills, and that Three be the Quorum of such Committee.

2. That Copies of all Petitions for Railway Bills presented to the House be laid before the said Committee.

3. That the Committee of Classification shall inquire and report what Railway Bills compete with, or ought to be considered in connexion with, any Railway Bills, the promoters of which shall have proved themselves entitled to the privilege agreed to be granted in certain cases by the Resolutions of this House of the 7th July last.

4. That the Committee of Classification shall form into Groups all other Railway Bills which, in their opinion, it would be expedient to submit to the same Committee.

5. That as soon as the Committee of Classification shall have determined what Railway Bills are to be grouped together, they shall report the same to the House, and all Petitions against any of the said Bills shall be presented to the House Three clear days before the meeting of the Committee thereon.

6. That no Railway Bill be read a First Time later than the next day but one after the Report of the Committee on Petitions or of the Standing Order Committee on such Bill, as the case may be, shall have been laid on the table, except by special Order of the House.

7. That there be no more than Seven clear days between the First Reading of any Railway Bill and the Second Reading thereof, except by special Order of the House.

8. That the Breviate of every Railway Bill shall be laid on the table of the House, and be printed and delivered One clear day before the Second Reading.

9. That such Railway Bills as shall have been read a First Time before the House shall agree to these Resolutions, shall be read a Second Time within Seven clear days thereafter.

10. That such of the Standing Orders as relate to the composition of the Committees on Private Bills, and the Orders consequent thereon, be suspended so far as regards Railway Bills pending in the course of the present Session.

11. That Committees on Railway Bills during the present Session of

Parliament shall be composed of a Chairman and Four Members, to be appointed by the Committee of Selection.

12. That each Member of a Committee on a Railway Bill or Bills, shall, before he be entitled to attend and vote on such Committee, sign a declaration that his constituents have no local interest, and that he himself has no personal interest for or against any Bill referred to him ; and no such Committee shall proceed to business until the whole of the Members thereof shall have signed such declaration.

13. That the promoters of a Railway Bill shall be prepared to go into the Committee on the Bill on such day as the Committee of Selection shall, subject to the Order that there be Seven clear days between the Second Reading of every Private Bill and the Sitting of the Committee thereupon, think proper to appoint, provided that the Classification Committee shall have reported on such Bill.

14. That the Committee of Selection shall give each Member not less than Fourteen days' notice of the week in which it will be necessary for him to be in attendance, for the purpose of serving, if required, on a Railway Bill Committee.

15. That the Committee of Selection shall give each Member a sufficient notice of his appointment as a Member of a Committee on a Railway Bill, and shall transmit to him a Copy of the Twelfth Resolution, and a Blank Form of the Declaration therein required, with a request that he will forthwith return it to them properly filled up and signed.

16. That if the Committee of Selection shall not within due time receive from each such Member the aforesaid Declaration, or an excuse which they shall deem sufficient, they shall report to the House the name of such defaulting Member.

17. That the Committee of Selection shall have the power of substituting, at any time before the first Meeting of a Committee, another Member for a Member whom they shall deem it proper to excuse from serving on that Committee.

18. That power be given to the Committee of Selection to send for Persons, Papers, and Records, in the execution of the duties imposed them by the foregoing Resolutions.

19. That no Member of a Committee shall absent himself from his duties on such Committee, unless in the case of sickness or by leave of the House.

20. That all Questions before Committees on Railway Groups or Bills shall be decided by a majority of voices, including the voice of the Chairman ; and that whenever the voices shall be equal, the Chairman shall have a second or casting vote.

21. That if the Chairman shall be absent from the Committee, the

Member next in rotation on the List who shall be present shall act as Chairman.

22. That Committees shall be allowed to proceed so long as Three Members shall be present, but not with a less number, unless by special leave of the House.

23. That if on any day within One hour after the time appointed for the meeting of a Committee Three Members shall not be present, the Committee shall be adjourned to the same hour on the next day on which the House shall sit, which had been fixed for that day.

24. That in the case of a Member not being present within One hour after the time appointed for the meeting of the Committee, or of any Member absenting himself from his duties on such Committee, such Member shall be reported to the House at its next sitting.

25. That each Committee shall be appointed to meet on each day of its sitting not later than Twelve o'clock, unless by the regular vote of the Committee.

26. That Committees on Railway Bills have leave to sit in the present Session, notwithstanding any adjournment of the House, if the Committees shall so think fit.

27. That every Committee on a Railway Bill shall fix the Tolls, and shall determine the maximum Rates of Charge for the conveyance of Passengers (with a due amount of luggage) and of Goods on such Railway; and such Rates of Charge shall include the Tolls, and the Costs of locomotive power, and every other expense connected with the conveyance of passengers (with a due amount of luggage) and of goods upon such Railway; but if the Committee shall not deem it expedient to determine such maximum rates of charge, a special Report, explanatory of the grounds of their omitting so to do, shall be made to the House, which special Report shall accompany the Report of the Bill.

February 16.

That it be an Instruction to the Select Committee on Petitions for Private Bills, and to all Committees upon Private Bills, not to hear parties on any Petition hereafter referred to them, which shall not be prepared and signed in strict conformity with the Rules and Orders of this House.

February 17.

HARBOURS, DOCKS, &c.—ORDERED, That all Bills for the formation or improvement of Harbours and Wet Docks, Navigable Rivers and Canals, and Works of every kind, on lands within high-water mark, be referred to the Board of Admiralty for their report thereon, before the Committee on the Bill shall report to the House.

February 19.

That no Notice for a Committee on a Petition for a Private Bill be received at the Private Bill Office, which shall fix for the first Meeting of such Committee any day later than *Friday* the 6th day of *March* next.

That no Notice of postponement of any such Committee be received at the Private Bill Office, except by the authority of the Committee on Petitions for Private Bills.

That no Private Bill be read a First Time later than the next day but one after the Report of the Committee on Petitions, or of the Standing Orders Committee, on such Bill, as the case may be, shall have been laid on the table, except by special Order of the House.

That there be no more than Twenty-one clear days between the First Reading of any Private Bill, not being a Railway Bill, and the Second Reading thereof, except by special Order of the House.

That no Private Bill, not being a Railway Bill, which shall now have been read a First time, shall be read a Second time after Ten clear days from this day, except by special Order of the House.

RAILWAY BILLS.—Paragraphs 7, 8, and 9 of Standing Order No. 87 read, as follow :—

“ That in the case of a Railway Bill the Committee report specially—

7. The sufficiency or insufficiency for agricultural, commercial, manufacturing, or other purposes, of the present means of conveyance and of communication between the proposed termini, stating the present amount of traffic by land or water, the average charges made for passengers and goods, and time occupied.

8. The number of passengers, and the weight and description of the goods expected upon the proposed Railway.

9. The amount of Income expected to arise from the conveyance of passengers and goods, and in what proportion ; stating also generally the description of goods from which the largest Revenue is anticipated.”

And REPEALED.

February 25.

BREVIATES OF PRIVATE BILLS.—*Ordered*, That Standing Order No. 114, requiring the Breviate of all Private Bills to be laid on the table Three clear days before the Second Reading of such Bills ; and Standing Order No. 119 requiring Breviates of Bills amended in Committee to be submitted to the Chairman of Ways and Means, and laid

on the table the day previous to the consideration of the Report, be suspended with respect to all Bills entitled to the privileges agreed to be granted in certain cases by the Resolutions of the House on the 7th day of July last.

February 26.

RAILWAY BILLS.—*Ordered*, That all Select Committees on Railway Groups or Bills be empowered to refer (if they shall so think fit) to the Chairman of Ways and Means, together with the Members ordered to prepare and bring in each such Bill, any unopposed Railway Bill submitted for their consideration, and that such Bills be severally dealt with by the said Chairman, and those Members respectively acting with him, as other unopposed Bills are to be dealt with.

March 2.

The following SUGGESTIONS have been drawn up by the CHAIRMEN, for the Consideration of the Select Committees on RAILWAY GROUPS :—

1. The attention of every Committee should be directed to the following Resolution of the House : “ That all Select Committees on Railway Groups or Bills be empowered to refer (if they shall so think fit) to the Chairman of Ways and Means, together with the Members ordered to prepare and bring in each such Bill, any unopposed Railway Bill submitted for their consideration, and that such Bills be severally dealt with by the said Chairman, and those Members respectively acting with him, as other unopposed Bills are to be dealt with.”

2. If parties agree as to the order of precedence in which other Bills included in the Group shall be taken, the Committee will adopt their agreement.

3. If parties do not agree, the Committee will decide the order of precedence, without hearing Counsel.

4. In this case such Bills in each Group as are not opposed by Competing Lines will be first taken into consideration, in the order in which they have been read a second time.

5. With respect to Competing Lines, the Committee will subdivide if necessary the Bills in each Group, so as to distribute into separate classes the Bills for such Lines as compete *inter se*.

6. With regard to such separate classes and the Bills in such classes, the Committee must exercise its discretion, according to the circumstances of the case, in determining the order of precedence.

7. In the cases of Bills for Lines of Railway competing *inter se*, the following course adopted last Session is proposed to be continued :

Suppose a case of four competing Bills :

No. 1. Counsel opens the case, and then produces evidence.

Landowners and other Opponents, and Nos. 2, 3, & 4 then cross-examine.

No. 1. Re-examines.

Landowners and other Opponents, and then Nos. 2, 3, & 4 offer consecutively positive evidence in opposition to No. 1 on the merits of his case.

No. 1 Cross-examines.

Landowners and other Opponents, and then Nos. 2, 3, & 4 re-examine.

Same process with 2, 3, & 4 in rotation, and 4, 3, 2, and 1 reply.

Where the opposition of several distinct opposing parties turns on the same points, it will be desirable to restrict, as far as possible, the limits within which the right of successive examinations and cross-examinations shall be exercised.

8. In all cases the Counsel in opening the case is to be restricted to a statement of facts. The Counsel for Opponents may either address the Committee previously to offering evidence, or afterwards, but not both.

9. The promoters of each Bill shall be required, Two clear days before the day appointed for the first sitting of the Committee, to furnish to the clerk of the Committee, for the use of each Member thereof, a particular printed statement of the chief points, succinctly stated, on which they rest their case.

10. The Opponents of a Bill shall be required to furnish at the same time a like statement of the chief points on which they rest their opposition.

11. The Standing Orders as to Traffic having been rescinded, no detailed evidence as to Traffic shall in ordinary cases be received either in support of or in opposition to a Bill, but the promoters of a Bill shall be required to append to the foregoing statement a printed list of the chief Cities or Towns intended to be accommodated, with their respective distances from the proposed Line, together with the amount of the Population of such Cities or Towns, taken from the Returns of the last General Census. It will of course be competent to the Committee, if they shall see sufficient cause, to require further evidence as to Traffic.

12. With a view to place some reasonable limit on the amount of Engineering Evidence, parties shall be required to furnish the Committee with the names of the Engineering Witnesses whom they propose to call; and it is recommended that Committees should place some limit on the number of Engineering Witnesses to be examined with reference to the same portion of any proposed Line.

13. In the case of Amalgamation Bills, the promoters of any such Bill shall be required to furnish the Committee with a printed statement of all the pecuniary claims and liabilities to which any Company included in the proposed Amalgamation is subject by any previous Act of Parliament.

March 3.

Ordered, That Standing Order No. 110, requiring that there be Three clear days between the First and Second Reading of a Private Bill ; and Standing Order No. 134, requiring Three clear days' notice of a Second Reading to be given in the Private Bill Office ; and Standing Order No. 139, requiring One clear day's notice in the Private Bill Office of the day proposed for the Report of every Private Bill, and also for the consideration of the Report ; and Standing Order No. 123, requiring the Reports on Railway Bills to be discussed every *Tuesday* and *Thursday* ; and Standing Order No. 142, requiring One clear day's notice of the Third Reading of a Bill ; and Standing Order No. 124, prohibiting any Private Bill from passing through two stages on the same day, be suspended with respect to all Bills entitled to the privileges granted by the Resolutions of the House on the 7th day of *July* last :

That such Bills may be read a Second time on the day following the First Reading of such Bills :

That the Committees on such Bills may report, and such Report may be considered, on the same day with that on which the Committee sits :

That such Bills may be read a Third time on the following day.

March 5.

RAILWAY BILLS.—Paragraph 20 of the Standing Order No. 87, read, as follows:—

“ That in the case of a Railway Bill, the Committee report specially—

Whether the Calculations proved in evidence before the Committee have satisfactorily established that the revenue is likely to be sufficient to support the annual charges of the maintenance of the Railway, and still allow profit to the projectors.”

And REPEALED.

March 19.

AQUEDUCTS, &c.—*Ordered*, That in case of Bills for making, maintaining, varying, extending, or enlarging any Aqueduct, Archway, Bridge, Weir, Canal, Cut, Dock, Ferry, Harbour, Navigation, Pier, Port, Railway, Reservoir, Tunnel, Turnpike Road, and Water Work, and for

all other works and inclosures on tidal lands within the ordinary spring tides, a general plan showing the situation and approaches to the said Aqueduct, Archway, Harbour, &c. should be denoted upon a sheet or sheets of the Ordnance Survey, when published, or else upon Maps of an equivalent scale, and extending ten miles on each side ; together with enlarged Plans and Sections of such parts of the works as are on the tidal lands within the ordinary spring tides, on a scale of not less than Twenty Feet to an Inch, with the dimensions figured thereon, shall, on or before the 30th day of November, be deposited in the Board of Admiralty.

Ordered, That the said Order be a Standing Order of this House.

HARBOURS, &c.—*Ordered*, That the promoters of all Bills for the formation or improvement of Harbours, Docks, Piers, Railways, Bridges, Weirs, &c., and for all works and inclosures on tidal lands within the ordinary spring tides, and also of Bills for Bridges over or Tunnels under navigable rivers already introduced this Session, shall forthwith send to the Board of Admiralty a copy of such parts of the Plans, Sections, and Books of Reference as they have deposited in the Office of any Clerk of the Peace, or Sheriff Clerk, on or before the 30th day of November immediately preceding this Session of Parliament, as are on the tidal land, within the ordinary spring tides.

April 2.

RAILWAY BILLS.—*Ordered*, That every Committee on a Railway Bill shall fix the Tolls, and shall determine the maximum Rates of Charge for the conveyance of passengers (with a due amount of luggage) and of goods on such Railway, and such rates of charge shall include the Tolls, and the costs of locomotive power and every other expense connected with the conveyance of passengers (with a due amount of luggage) and of goods upon such Railway ; but if the Committee shall not deem it expedient to determine such maximum rates of charge, a special Report, explanatory of the grounds of their omitting so to do, shall be made to the House, which special Report shall accompany the Report of the Bill.

Ordered, That the following Clause be inserted in all Railway Bills passing through this House :—

“ And be it further Enacted, That nothing herein contained shall be deemed or construed to exempt the Railway by this or the said recited Acts authorised to be made from the provisions of any General Act relating to such Bills, or of any General Act relating to Railways, which may hereafter pass during this or any future

Session of Parliament, or from any future revision and alteration, under the authority of Parliament, of the maximum rates of fares and charges authorized by this Act."

April 23.

RAILWAY BILLS.—*Resolved*, That this House will not read a Third Time any Bill to empower any Company (whether intended to be incorporated by such Bill, or already incorporated by Act of Parliament) to construct a Railway, unless Three clear days before the third reading there shall have been deposited at the Private Bill Office, there to be open to the inspection of all parties, a certificate signed and authenticated in manner hereinafter mentioned, and comprising the particulars hereinafter expressed, and stating the following facts, viz. :

1. That a copy of the Bill was submitted to the consideration of a Meeting of the Holders of Scrip, or of Bankers' Receipts for Scrip, of the Company, or (in case of a Company already incorporated) of the Shareholders or Stockholders of the Company, specially called for that purpose.

2. That such meeting was called by advertisements, inserted once in each of two consecutive weeks in the *London Gazette* (if the Railway be an English Railway), or in the *London and Edinburgh Gazettes* (if the Railway be a Scotch Railway), or in the *London and Dublin Gazettes* (if the Railway be an Irish Railway), and in each case in at least three London daily newspapers, and not less than Three times in each such paper, in each of such two consecutive weeks ; and in case the Railway be a Scotch Railway, not less than twice in each of three Edinburgh newspapers in each of such two consecutive weeks ; and in case the Railway be an Irish Railway, not less than Three times in each of Two Dublin daily newspapers in each of such two consecutive weeks.¹

3. In the case of the Company being intended to be incorporated by the Bill :—That such meeting was constituted of persons producing thereat Scrip, or Bankers' Receipts for Scrip, of the Company, representing not less than one-third part of the whole capital proposed to be raised by the Company under the Bill (such Scrip having been actually issued, or the deposits in respect thereof having been paid before the 31st of March in the present year.)

4. In the case of the Company being already incorporated :—That such meeting was held, except so far as is herein otherwise provided, according to the constitution of the Company, and was

¹ As amended *April 27*.

constituted of Shareholders or Stockholders thereof competent to vote at the ordinary Meetings of the Company, and representing either personally or as proxies not less than One-third part of the whole capital or stock of the Company.

5. That at such Meeting the Bill was approved of by persons producing thereat Scrip, or Bankers' Receipts for Scrip, equal to at least Three-fifths of the total amount of Scrip, or Bankers' Receipts for Scrip, produced at the Meeting ; or, in the case of a Company already incorporated, by Three-fifths at least of the Meeting, the votes being given and computed according to the constitution of the Company.

6. That those cases in which the Bill is promoted by an incorporated Company, but the parties interested are Holders of Scrip which it is proposed shall be converted into Shares or Stock, or otherwise become portion of the interest of the incorporated Company on the passing of the Bill, and contingently only on that event, shall for the purposes of this Resolution be deemed to be cases of Companies not yet incorporated.

Resolved, That for the purposes of this Resolution it shall be competent for the Chairman of any meeting called in pursuance thereof, in the event of the above prescribed Quorum of Scrip, Shares, or Stock (as the case may be), not being represented at such Meeting, to cause the votes of the persons constituting the said Meeting, approving or not approving of the Bill, to be taken and recorded, and then to adjourn the same to some day, hour, and place to be declared by the Chairman, such day not being less than Three days, and not more than One week, from the original day of Meeting, and such day, hour, and place being, in the meantime, advertised twice in each of Three London daily newspapers, or in the Edinburgh or Dublin newspapers, as above directed in the case of Scotch or Irish Railways ; and at such adjourned meeting it shall also be competent to the Chairman thereof to cause to be taken and recorded the votes of such of the persons constituting the same as have not voted at the original Meeting ; and the total amount of votes given at the original and adjourned Meeting shall be received as if given at one and the same Meeting.

Resolved, That such certificate shall also comprise, in a tabular form, the following particulars :

1. The day, time, and place of the Meeting, and of the adjourned Meeting (if any).
2. The dates of insertion of the advertisements for the meeting, and the names of the newspapers in which they were inserted.
3. The names and addresses of the persons producing Scrip, or

Bankers' Receipts for Scrip, at the Meeting, according to the statements of such persons :

Or, in the case of a Company already incorporated,

The names and addresses of the Shareholders or Stockholders present at the Meeting, according to the Register Book of names and addresses.

4. The denoting numbers, if any, of the Scrip, and in the case of Bankers' Receipts, the names of the persons from whom the deposit is therein stated to be received, and the amount of the Scrip and Receipts respectively produced by the persons so producing the same at the meeting :

Or, in the case of a Company already incorporated,

The respective amount of shares or stock held or represented by the Shareholders or Stockholders attending the meeting.

5. The fact of the approval or non-approval of the Bill (as the case may be) by the several persons producing Scrip or Bankers' Receipts at the Meeting, or by the several Shareholders or Stockholders attending the Meeting.

6. The total amount of Scrip and Bankers' Receipts produced at such Meeting, and the amount thereof produced by the persons approving of the Bill :

Or, in the case of a Company already incorporated,

The total amount of shares or stock represented, either in person or by proxy, at the meeting, and the amount thereof so represented by persons approving of the Bill.

7. The total amount of the capital proposed to be raised by the Company under the Bill :

Or, in the case of a Company already incorporated,

The total amount of the Capital or Stock of such Company.

Resolved, That such certificate shall be signed by the Chairman of the Meeting and by one of the Solicitors of the Company ; and the authenticity of such certificate shall be verified by the signature of the Parliamentary Agent depositing the same.

Resolved, That these Resolutions shall not apply to any Bill, the Third Reading of which is fixed for Monday next.

April 23 (as amended April 30).

Ordered, That it be an instruction to the Committee on every Private Bill, originated in this House, relating to any Railway, before proceeding with the merits of such Bill, to require to be produced before them, and verified by the promoters,—

1. A Copy of the original Return made for the purposes of Pro-

visional Registration, with the names of the Promoters as then registered.

2. The names, residences, and descriptions of the present and past Provisional Directors, Treasurers, Solicitors, Secretary, and other Officer, if any.

3. The present and proposed amount of the Capital of the Company.

4. The number of Shares and the amount of each Share.

5. The number of Shares actually allotted, with the names, residences, and descriptions of the original Allottees, and the number of Shares allotted to each.

6. The amount of Subscriptions paid up by such original Allottees.

7. The amount of Shares retained by such of the Provisional Committee.

8. The amount of Subscriptions actually paid up by such Provisional Committee upon the Shares originally allotted to them.

9. The original Subscribers' Agreement, signed by the Allottees.

10. A Statement of the amount of money in hand, together with an Abstract of all receipts and expenditure, up to the presentation of the Petition for the Bill.

11. A Statement of the source whence the Parliamentary deposit was paid, or whether a declaration was made of a surplus revenue instead of a deposit.

And that the Committee, immediately on having completed this branch of their inquiry, report specially on each of the foregoing particulars, together with the Documents received.

April 28.

RAILWAY BILLS.—*Ordered*, That it be an instruction to the several Committees on Railway Groups, that in all instances in which Railway Companies propose to take powers of amalgamation with other Companies, either by sale, purchase, lease, or otherwise, the rates and charges of such Companies be revised, and a new maximum imposed; and that they specially report any circumstance which may have induced them to allow such maximum to exceed the minimum of rates and tolls actually charged and received by the respective Companies at any previous period:—That they also append to their Report a Schedule, containing, under the various heads of traffic, the minimum of rates and tolls previously received, and the maximum which it is proposed to allow the Companies to take under their Bill.

May 11.

Order read for resuming adjourned debate on question "That the Order of the 30th day of *April*¹ last be extended to all Private Bills relating to Railways brought from the House of Lords." Question again proposed. Debate resumed. Question put and agreed to.

June 10.

STANDING ORDERS.—Standing Order, No. 135 (*April 3*) read, and *repealed*.

Resolved, That Seven clear days' notice be given by the Clerk to the Committee of Selection, to the Clerks in the Private Bill Office, of the day and hour appointed for the Meeting of the Committee on every Private Bill that shall have been referred to such Committee.

That, in the case of Bills not referred to the Committee of Selection, Seven clear days' notice, and in the case of a recommitted Bill, Three clear days' notice be given by the Agents for the Bill, to the Clerks of the Private Bill Office of the day and hour appointed for the meeting of the Committee on every Private Bill; and that all the proceedings of any Committee, of which such notice shall not have been given, be void.

Ordered, That the said resolution be a Standing Order of the House. Standing Order No. 137 read and *repealed*.

Resolved, That notice in writing be given by the Clerk to the Committee of Selection, to the Clerks in the Private Bill Office, of the postponement of the first meeting of any Committee on a Private Bill, which shall have been referred to such Committee, on the day on which such postponement is made; and that in the case of Bills not referred to the Committee of Selection, One clear day's notice be given by the Agents for the Bill to the Clerks in the Private Bill Office of the postponement of the first meeting of any Committee on a private Bill.

Ordered, That the said resolution be a Standing Order of the House.

July 10.

PRIVATE BILLS.—*Resolved*, That Standing Orders Nos. 121 and 122 requiring amendments proposed on the report or third reading of a Bill to be referred to the Select Committee on Standing Orders, be, to the end of the present Session, suspended.

Resolved, That no amendments be proposed in the House on the report or third reading of a Private Bill upon notice given in the House,

¹ See *ante*, p. xx.

but that notice of such amendments be given in the Private Bill Office upon the day previous to their being proposed.

Resolved, That a copy of such amendments be printed and circulated with the votes on the day on which such amendments are to be proposed to the House.

August 10.

10. PRIVATE BILLS COMMITTEE.—Report further considered.

Resolved, That public general acts should be prepared for each of the several subjects of Police and Watching, of Waterworks and Sewage, of Paving, of Improvements of Towns and Regulation of Buildings, Streets and Roads, of Markets and Fairs, of Cemeteries, of Bridges and Ferries, of Harbours, Docks, Ports, Piers and Quays, of Canals, Rivers and Navigation, as recommended in the Report of the Select Committee on Private Bills, embodying, as far as possible the suggestions thereof.

Resolved, That with the view of an immediate saving of time and expense in the proof of Standing Orders in the ensuing Session of Parliament, the proof of Standing Orders, now taken before the Committees on Petitions, shall be taken before an officer¹ or officers to be appointed by Mr. Speaker.

Resolved, That the same fees shall be paid upon the taking proof before such officers as would have been payable, in case the same had been taken by a Committee of this House.

Resolved, That the Standing Orders of the House should be immediately² revised as regards the proof of the Standing Orders for Private Bills to be given before such officer or officers appointed by Mr. Speaker.

Resolved, That it would be productive of great advantage in Private Legislation if the Standing Orders of the two Houses of Parliament relating to Private Bills could be assimilated.

Resolved, That when any City, Borough, Parish, Company, or other parties invested with the powers, or acting under the provisions of any existing Local Act or Acts, shall apply to Parliament for a new Bill for new and amended powers and provisions, with reference to the same matters, it shall be imperative on the Promoters to send their new Bill, together with all previously existing Acts then in force on the same subject within the City, Borough, Parish or District, to the Board of Trade, which shall report to the House whether, in their opinion, the new Bill should be allowed to proceed, or whether all the existing Acts

¹ See Standing Orders 1 and 2.

² See Standing Orders, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 27, 28, 32, 33, 34, 35, 40, 41, 42, 45, 46, 47, 51, 54.

should be repealed, and the powers and provisions of such repealed Acts, together with the new or amended powers and provisions sought for, should be consolidated to the intent that only one local Act should be in force at the same time, in the same place, with reference to the same object.

August 18.

That it is the opinion of this House that it is expedient that a department of the Executive Government¹ so constituted as to obtain public confidence be established for the superintendence of Railway business.

¹ See 9 & 10 Vict., c. 105.

N.B.—For further alterations in the Standing Orders, which it has been thought unnecessary to notice specifically, see Standing Orders 3, 4, 57, 58, 60, 84, 97, 99, 112, 113, 114, 115, 116, 117, 132, 138, 139, 140, 142, 143, 160, 161 ; see also *ante*, p. 23, notes ¹ and ².

RAILWAY PARLIAMENTARY CASES.

GROUP 27.

North Staffordshire Railway (Pottery Line) Bill.

North Staffordshire Railway (Churnet Valley) Bill.

North Staffordshire Railway (Harecastle to Sandbach Line) Bill.

SIR CHARLES LEMON, BARONET, M.P. FOR
CORNWALL, CHAIRMAN.

Lines intimately connected, taken together—Traffic evidence dispensed with—Inhabitants of town held to have a *locus standi*—Counsel for petitioner against one line not allowed to cross-examine as to another—Opponents of three lines heard, before the Committee came to a decision on any—Where two lines proposed, and landowner objects to one, but not to alternative line which does not affect his property, Held, that this is a matter for consideration upon the clauses, and not upon the preamble—Promoters not required to decide between alternative lines—Inhabitants of town not allowed to go into evidence of competing line—Landowner having property on branch line, entitled to be heard only against so much of the preamble as related to that particular branch—Opposition of landowner, held to be upon clauses and not upon preamble—Counsel for landowner, not allowed to go into matter not alleged in petition—Landowner's case postponed by consent till clauses of bill came under consideration—Moving House for instructions to amalgamate bills—Landowner's witnesses examined *de bene esse*, in order to save expense—On clause restraining promoters from taking petitioner's land without his consent, evidence as to gross value of such land admissible—When clauses in two bills identical, &c., petitioner permitted to be heard against clause of bill other than that petitioned against.

Mr. *Austin*, Q. C., stated, that as the three Stafford- ^{1846.}
shire lines were intimately connected with each other, he *April 27.*

1846. would, with the permission of the Committee, include them all in one opening speech.

He thereupon opened the case on behalf of the promoters.

Traffic evidence not required.

Mr. *Austin*, Q. C., stated, that he was prepared with a great number of witnesses to speak to the traffic on the proposed lines if it should be the opinion of the Committee that such evidence was necessary.

The Chairman stated, that the Committee had no doubt that there was traffic amply sufficient in the district of country through which the lines in question would pass, to support the proposed Railways; therefore they did not require any evidence on that point to be produced.

Mr. *Austin*, Q. C., then stated, that he would proceed at once with engineering evidence.

Mr. Bidder, the engineer of the projected line, was thereupon called by the promoters.

Locus standi of inhabitants of town.

Mr. *Montague Smith*, proposing to cross-examine Mr. Bidder on behalf of the inhabitants of Leek, who had presented a petition against the Churnet Valley Line, complaining of the badness of the curves and the insufficiency of the line—

Mr. Serjt. *Murphy* on behalf of the promoters objected, on the ground that the inhabitants of Leek had no *locus standi*; that the only persons entitled to be heard were the landowners and other persons whose property was interfered with, and that it was not according to the practice of committees to allow any number of inhabitants who might have presented a petition against a bill for a railway, to be heard¹.

The Committee decided that the inhabitants of Leek

¹ With regard to the right of the inhabitants of a city, town, &c. to be heard against a bill for a projected line of railway, see Report of Proceedings of Committee on Group X. of 1845 Sessions. Walford on Railways, Appendix, p. ccxxxvii. Report of Proceedings of Committee on Group (A) *ib.* p. ccxliii. See also further, *ib.* p. cccxxiii., and Ridd. Parl. Prac. p. 204—206.

were entitled to be heard on the allegations of the petition in opposition to the bill. 1846.

Mr. *M. Smith*, in the course of his cross-examination having asked Mr. Bidder whether he (Mr. Bidder) did not know that another line, specified by the learned counsel (viz., from Macclesfield to Lichfield) was four miles shorter than the North Staffordshire Potteries Line—

Counsel for petitioner against one line not allowed to cross-examine as to another.

Mr. *Macaulay*, on behalf of the promoters of the Potteries Line, objected to the question on the ground that the petition of the inhabitants of Leek was not against the Potteries Line, but against the Churnet Valley Line.

The Committee allowed the objection.

On the conclusion of the case of the promoters of the Potteries Line, Mr. *Townsend* stated that an arrangement had been entered into by the opponents of the Bill, as to their course of proceeding, and with the sanction of the Committee he would proceed to open the case of the Messrs. Woods, of Macclesfield; reserving the case of Mr. Warren, for whom he also appeared, to be opened by Mr. Forsyth, who was with him.

April 29.
Order of hearing.

Mr. *Macaulay* said that the petition of the Messrs. Woods was against the Churnet Valley Line, and submitted to the Committee that it would be the most convenient course, and would save a great deal of confusion, if the Committee would decide on the case of the Potteries Line before they entered into the consideration of the opposition to the other two lines.

Mr. *Townsend* objected to this course, as Mr. *Austin* had opened the case and given evidence on the whole of the lines.

The Chairman stated, that the Committee were of opinion that the opponents of the three bills should be heard, to state their case and give their evidence, before the Committee came to a decision on any one of the lines.

Mr. *Townsend* then proceeded to open the case on behalf

1846.
What a
ground of
opposition
on the
clauses and
not on the
preamble.

of the Messrs. Woods, in opposition to the Churnet Valley Line, and submitted that all injury might be avoided to the mills of the Messrs. Woods if the promoters of the bill would take the Western Line: that was the alternative line proposed, and to which they had no objection.

Mr. Serjt. *Wrangham* objected to Mr. *Townsend* being heard further in opposition to the preamble of the bill, on the ground that, as there were two lines proposed, and Mr. *Townsend* did not object to one of them because it did not touch his clients' property, the question, which of those two lines should be taken, was a matter which was properly the subject of consideration upon the clauses, and not upon the preamble of the bill, and Mr. *Townsend* might tender a clause compelling the company to take the Western Line, to which line he did not object.

Mr. *Townsend* was heard in answer to the objection.

The Committee-room was cleared.

On counsel and parties being called in, they were informed by the Chairman, that the Committee were of opinion that Mr. Serjt. *Wrangham's* objection was a valid one.

Promoters
not required
to decide
between
alternative
lines.

Mr. *Townsend* then asked the Committee to call upon the promoters of the bill to state whether they intended to proceed with the Eastern or the Western Branch.

The Chairman asked Mr. *Macaulay* whether he was willing to give an assurance in that respect.

Mr. *Macaulay* said he was not.

Grounds of
opposition of
inhabitants
of town.

Mr. *M. Smith* then proceeded to address the Committee in support of the petition of the inhabitants of Leek, and was showing that the Macclesfield and Lichfield would have been a better line.

Mr. *Austin*, Q. C., objected to Mr. *M. Smith* addressing the Committee on behalf of another line, the Macclesfield and Lichfield, which was not then before the Committee, and which had been thrown out upon the standing orders; and requested the Committee to allow him to examine Mr.

Challenor, the Solicitor of the Macclesfield and Lichfield Railway Company, for the purpose of showing that the petition which was presented on behalf of the inhabitants of Leek was not a *bonâ fide* petition, but that it was got up by the Macclesfield and Lichfield Railway Company. 1846.

Mr. M. Smith addressed the Committee in answer to the objection.

Mr. Austin, Q. C., replied.

The Chairman stated that the Committee were of opinion that Mr. Austin, Q. C., might examine Mr. Challenor with respect to that fact.

Mr. Challenor accordingly was called in and examined by Mr. Austin, Q. C. It was elicited from him, that he had no express retainer or authority either from Lord Bagot or the inhabitants of Leek to act for them in the matter of the opposition to the North Staffordshire Line; and though to a certain extent he considered he had a legal right against the inhabitants of Leek for his expenses, yet that he had no intention of enforcing it, but that he expected to be paid, if at all, by the Directors of the Macclesfield and Lichfield scheme, and that the expenses of witnesses would, he expected, be paid by the same parties.

Mr. Austin, Q. C., upon this submitted to the Committee that upon the evidence which had been given by the witness it was clear the opposition offered to the bill was not a *bonâ fide* opposition on the part of Lord Bagot and the inhabitants of Leek, but was got up by the Macclesfield and Lichfield Company, and therefore could not be entertained by the Committee.

Mr. M. Smith was heard in answer to the objection.

Mr. Austin, Q. C., was heard in reply.

The Committee-room was cleared.

The Committee came to the following resolution:—

“ That the Committee will not hear any arguments or

1846. evidence in favour of a competing line, and the counsel for the inhabitants of Leek must confine himself to the general allegations of that petition, that the line now before the Committee is not good and convenient in itself."

April 30. Mr. M. Smith having concluded his address to the Committee in support of the petition of the inhabitants of Leek, proceeded to state the case of Lord Bagot against the Churnet Valley Bill.

Locus standi of petitioner who objects to one portion of entire scheme, when his property which is to be taken lies on another portion.

Lord Bagot, it appeared, had property to the north of Uttoxeter, and in the neighbourhood of, but not upon the main line of the Churnet Valley scheme; through this property ran a canal that the promoters proposed to shut up; he also possessed other property through which a branch of the above scheme was intended to run. In opening the case of the petitioner, his counsel stated that it was not to the branch but to the main line that his client mainly objected.

Mr. Macaulay, for the promoters of the bill, thereupon contended that Lord Bagot, on his own counsel's showing, had no *locus standi*, his opposition really being directed against the main line, which did not run through his property, and not to the branch, which did, and in regard of which alone, consequently, he had a right to be heard before the Committee.

Mr. M. Smith and Mr. Selwyn, on behalf of Lord Bagot, contended that the main line and branch formed portions of one entire scheme; that Lord Bagot objected to the entire scheme, though more particularly to the main line, and this was all that his counsel in effect admitted; that a landowner had a right to say that he objected to some one portion of an entire scheme rather than to another, and consequently by so doing did not in any way deprive himself of his *locus standi* to be heard against the entire scheme.

The Committee came to the following resolution:—

"That they were ready to hear parties on behalf of Lord

Bagot, against so much of the preamble as related to the branch from Uttoxeter to Stoke only" (being the branch in question). 1846.

Mr. Locke was then called and examined by Mr. *Selwyn*, on behalf of Lord Bagot.

Mr. *Townsend* proposed to cross-examine the witness on behalf of the Messrs. Woods, they having presented a petition against the Potteries Line as well as the Churnet Valley Line. Opposition of land-owners when upon clauses and not on the preamble.

Mr. *Macaulay* submitted, that after the decision which the Committee had come to, Mr. *Townsend* could only be heard on behalf of the Messrs. Woods, on the clauses of the bill, and not on the preamble.

Mr. *Townsend* was heard in answer to the objection.

Mr. *Macaulay* was heard in reply.

The Chairman stated, that it was the opinion of the Committee that Mr. *Townsend* could not be heard against the preamble of the bill with respect to this second petition.

Mr. T. Turner, Lord Bagot's agent, was called and examined by Mr. *Selwyn* on behalf of that nobleman.

In the course of the witness's examination a series of questions were put to him, calculated to elicit the difference of the tolls, as charged on the canal above referred to, and those proposed to be charged under the bill. Counsel for petitioner against bill cannot examine as to matter not alleged in petition.

Mr. *Macaulay*, on behalf of the promoters, objected to the course of examination, there being no allegation to that effect in the petition of Lord Bagot. The Chairman stated that it was the opinion of the Committee, that Mr. *Selwyn* could not examine upon any matter which was not contained in the petition, and that the question respecting the different charges would be settled when they came to the clauses.

Mr. *Wordsworth* was then heard on behalf of the Messrs. Whieldon, in opposition to the preamble of the bill.

The Committee inquired of Mr. *Wordsworth*, whether his client's interest would not be effectually protected, sup- Landowner's case postponed till

1846. posing the bill should pass the first stage, by having a clause inserted in the bill, by which such deviation as the Messrs. Whieldon thought proper and desirable should be enforced, and if so, whether the best course would not be to postpone the consideration of the question until the Committee came to the consideration of the clauses of the bill.

clauses came
under con-
sideration.

Mr. *Wordsworth* stated he was quite satisfied with that arrangement.

Instructions
for the amal-
gamation of
bills.

The Committee having found the preambles of the North Staffordshire bills proved, Mr. *Talbot*, Q.C., stated, it would be desirable that there should be a reference by the Committee to the House for instructions as to the amalgamation of these three bills, and therefore he would ask for an adjournment for that purpose until the early part of next week.

Order of
hearing.

Mr. *Townsend* stated that Messrs. Woods had several witnesses in attendance on their behalf, and it would save a great deal of expense to the parties, if the Committee would allow them to be examined the next day.

Mr. *Wordsworth* stated, that he had the same application to make with respect to the Messrs. Whieldon's witnesses.

Mr. *Talbot*, Q.C., stated he had no objection to that course.

The Chairman stated, the Committee would meet the next day, in the expectation that in the mean time some private arrangement would be come to; if it turned out that the parties had not done that, then they would hear what evidence should be brought forward on the one side and the other, but with the understanding, that the parties must not bring forward any evidence in the future stage of the bill, on the same point; and the Committee would then determine what decision they would come to; though it could not be publicly announced till the clauses came under the consideration of the Committee.

May 1.
Clause re-
straining
promoters
from taking

Mr. *Wordsworth* was heard, to propose a clause on behalf of Mr. G. Whieldon restraining the promoters from taking his land without his consent. Mr. Haighs, a surveyor, was

called and examined by Mr. *Wordsworth* in support of the proposed clause. A question being put to the witness as to the fair value of Mr. Whieldon's property—

1846.

petitioner's
land without
his consent.

Mr. *Macaulay* objected to the question as, on the case the petitioner's counsel had laid before the Committee, it was perfectly irrelevant what the amount was the whole estate would sell for.

The Committee decided, that looking at the object of the proposed clause, evidence as to the gross value of the property of the petitioner was admissible, though not as to the value of the land, acre per acre.

Evidence as
to value of
petitioner's
land admis-
sible.

North Staffordshire Railway (Harecastle to Sandbach Line)
Bill.

The Committee proceeded with the clauses of the bill. May 4.

Mr. *Wordsworth* stated, on behalf of his clients, the Messrs. Whieldon, that he objected to the 51st clause.

Mr. *Macaulay* objected to Mr. *Wordsworth* being heard against the clause in this bill, as his petition was against the Churnet Valley Line.

Mr. *Wordsworth* stated that the 51st clause in the Churnet Valley Bill was to the same effect; and if the Committee passed the clause in this bill, it would be of no use opposing the clause in the other bill.

The Chairman inquired of Mr. *Wordsworth*, if the Committee allowed him to be heard against this clause, whether he would abide by their decision, and not renew his opposition to the clause in the other bill.

Right of
petitioner to
be heard a-
gainst clause
of one bill
where his
petition is
against an-
other.

Mr. *Wordsworth* stated he was perfectly willing to accede to that arrangement.

The Chairman stated that the Committee would reserve the consideration of that clause until the other clauses had been gone through, and would then hear what Mr. *Wordsworth* had to say in opposition to that clause.

1846.

GROUP 27.

*South Midland Railway (Northampton and Bedford Lines) Bill.
Leicester and Bedford Railway Bill.*

SIR CHARLES LEMON, BARONET, M.P. FOR
CORNWALL, CHAIRMAN.

Mr. Duncombe's resolutions—In making the returns required by Mr. Duncombe's resolutions it is not necessary that every alteration made during the progress of the formation of the Company should be given—Copy of tables of traffic directed to be furnished to counsel of opposing landowner—General engineering evidence touching line not before the Committee—Deviation line not before Committee, counsel opposing bill having cross-examined witness as to, cannot object to the counsel for the bill re-examining him on the same line—Valuation of property: valuer cannot be asked as to value of separate portions of one property—Advertisements not admissible in evidence for Company, without proof connecting the Company with the advertisements—Agreement to deviate, when no objection to the preamble.

May 5.

Mr. Dun-
combe's re-
solutions.

Prior to the opening of the case of the first-mentioned line, a question was raised as to the compliance with Mr. Duncombe's resolutions. Mr. *Mellor*, who appeared for the competing line (the Leicester and Bedford,) stated to the Committee, that since their last meeting a petition had been presented to the House on behalf of his clients, respecting the returns made by the promoters under Mr. Duncombe's resolutions, and that the House had referred such petition to the Committee: the petition in substance alleged that the returns were defective in several particulars:—1st, in not stating the amount of the capital of the original Company; 2ndly, in not giving a copy of the original return made for the purpose of provisional registration, with the names of the promoters as then registered; and lastly, that the requirements touching the names, residences, and

descriptions of the present and past provisional directors, treasurers, solicitors, secretaries, and other officers, if any, had not been complied with; that he was in a condition to prove that the South Midland Railway Company originated and was provisionally registered, as a scheme promoted by three persons, with a capital of one million, for the construction of a line from Leicester to Northampton, through Harborough; that that object had not been carried out, but that an alteration had taken place in the project, and that the Midland Company had become interested in the line, and projected, in addition to the first-named branch, one from Harborough to Bedford; that various advertisements had been put forth and different prospectuses issued, altering the amount of capital and making various modifications in the project, all of which did not appear in the returns; that a portion of the shares in this Company were allotted under a scheme different to the present, *i.e.*, in the project from Leicester to Northampton, and that this ought to have been made known to the Committee; he admitted that the last alteration of the scheme had been comprised in the returns; but he contended that the object of Parliament being to obtain a knowledge of the mode in which the Company was first originated, and how it had proceeded up to the present time, the modifications alluded to ought to have been given, and the original returns made for the purpose of provisional registration, put in; he therefore prayed the Committee that their Chairman should apply to the House to refer back to them their report on the resolutions, in order that they might examine into the matters of the petition.

Mr. *Hildyard*, Q.C., for the South Midland Company admitted that the original scheme was more limited than the present; but he contended that it was not necessary to give information with respect to every part of the project as originally conceived, but merely to inform the Com-

1846.

1846. mittee of certain facts with reference to the scheme before them; that it was first contemplated to construct a line between Leicester and Northampton simply, but that the original scheme had been extended; that the promoters had satisfied the resolutions with respect to the scheme then before Parliament; that the petition was referred to the Committee, and they were desired to consider it, but that the Committee were not directed by the House to enter into the investigation now sought for; and that the Committee were to determine themselves whether there was any allegation in the petition requiring the interposition of the Committee; that the scheme from Northampton to Leicester was only a portion of the scheme then before the Committee; that since the Company had assumed the shape in which it now came before the Committee, namely, a company proposing the present scheme, every particular required had been given, and that the origin of the Company was, when it embraced the object of the present undertaking.

The Committee agreed to the following resolution :—

“That the Committee do not see the necessity for moving the House of Commons for the re-committal of the report on the grounds stated.”

Subsequently, an hon. member said, that it was not necessary to call evidence in support of *Mr. Mellor's* statement, as, admitting the whole of it, the Company had complied with the letter, and certainly with the spirit of the resolutions.

Traffic
tables.

Mr. Jay, an accountant, was called on behalf of the promoters, and examined as to the traffic of the district proposed to be traversed by the intended line.

At the close of the witness's examination,

Mr. *Flood*, on behalf of an opposing landowner, Sir Justinian Vere Isham, Bart., of Lamport, Northampton, stated that he was not then prepared to proceed with the cross-examination of this witness, not having seen the tables which the

witness had produced ; and he applied to the Committee, to direct that a copy should be furnished to him, and that the cross-examination should be postponed for that purpose. 1846.

The Chairman wished to know whether the cross-examination would be confined to the district between Market Harborough and Northampton.

Mr. *Flood* said it would.

The Chairman then directed that that portion of the tables which related to the traffic between Market Harborough and Northampton should be furnished to Mr. *Flood*, and that the cross-examination should be postponed until the next day. (*See The London and Oxford Railway Bill*, p. 28).

Mr. Liddell, one of the engineers of the line, was called May 12. and examined by Mr. *Macaulay*, on behalf of the promoters. From this witness's evidence it appeared that the Midland Company, (who were the promoters of the present scheme, and of whose line the latter was really and in truth an extension to the south, as it left it about three miles from the Leicester station of the Midland Company, to the south of Leicester) had a bill before the House of Commons for a junction with the Leicester and Swannington Railway.

On his cross-examination by Mr. Serjt. *Wrangham*, it was further elicited from the witness, that the point at which the proposed junction line was to leave the Midland, was about a mile from the latter Company's Leicester Station to the south of that town, and consequently about two miles from the terminus of the South Midland. Engineering evidence as to line not before the Committee.

Mr. Serjt. *Wrangham* thereupon proceeded to cross-examine this witness, with reference to the curve at which the two lines, viz., the Midland and the Swannington Junction, would join.

Mr. *Macaulay* objected to Mr. Serjt. *Wrangham* cross-examining the witness as to the engineering merits of the Swannington Junction Railway, as he had not gone into the merits of that line, nor was it a line which was before the Committee.

1846.

Mr. Serjt. *Wrangham*, *contra*.Mr. *Macaulay* in reply.

The Committee decided, that a few leading general questions, showing the communication that would be opened by way of those lines, though they were beyond the trusts of the bill, would be permitted; but as to the details of engineering evidence upon matters out of the limits of the bill, they were of opinion that they could not be received.

Leicester and Bedford Railway Bill.

Deviation
line not be-
fore Com-
mittee, when
counsel
may re-ex-
amine wit-
ness as to.

Mr. Cubitt, the engineer of the line, having been cross-examined by Mr. *Macaulay* touching an intended deviation, which the Company had agreed to make, in order to satisfy an opposing landowner, &c.—

Mr. *Paget*, on his re-examination of the witness, proposed to show the convenience and desirability of the proposed deviation.

Mr. *Macaulay* objected to Mr. *Paget* going into the merits of a deviation line which was not in the bill before the Committee.

The Committee decided, that as Mr. *Macaulay* had asked some questions as to that line in his cross-examination, Mr. *Paget* should be allowed to put some questions, generally with respect to it.

Valuation
of property,
evidence as
to.

Mr. Swaffield, a land-valuer, was called on behalf of the promoters by Mr. *Maunsell*, to speak as to the value of the property required for the purposes of a certain portion of the line. On his cross-examination by Mr. *Wordsworth*, who appeared for a landowner (Mr. Gulston), he stated that he had made a separate valuation of the different parts of that gentleman's property required by the Company, and had then brought it up to a certain amount: he was

then asked at what he valued the Park, which was a portion of the property included in the valuation. 1846.

Mr. Serjt. *Wrangham* objected to the question.

The Committee allowed the objection.

Mr. Edward Young, the assistant-secretary of the Leicester and Bedford Railway Company, was here called as a witness on behalf of the promoters, Mr. Paget proposing to put into his hand a newspaper (the *Northampton Mercury*) containing an advertisement of the Leicester and Bedford Railway, dated the 27th September, 1844. Evidence,
advertisements.

Mr. *Macaulay* objected to the production of the newspaper as evidence, it not having been connected with the promoters of the bill.

Mr. *Paget*, *contra*.

Mr. *Macaulay* in reply.

The Committee decided that the counsel should first get from the witness what he knew of the advertisement. Upon examining the witness, it appeared that he was not the assistant-secretary at the time of the advertisement appearing in the paper.

Mr. *Paget* thereupon stated that he could not connect the advertisement with the Company more than he had done, and therefore he would not put it in as evidence.

Mr. *Macaulay* stated that his clients had served a notice on the promoters of the Leicester and Bedford line, calling upon them to produce the agreement which had been entered into between them and the Duke of Buccleugh. Agreement
to deviate.

Mr. *Paget* then produced a copy of the agreement. (See the agreement, *post*, Rugby and Huntingdon Bill, p. 22).

Mr. *Paget* then addressed the Committee on behalf of the promoters of the Leicester and Bedford Line. As to the agreement to deviate, he submitted that the Coventry, Bedworth and Nuneaton¹ case (*Supp. to Votes*, 1845, p. 1051) was not applicable. In that case the agreement was not to make that line which the parties were asking powers

¹ See *post*.

1846. to construct, and the Committee said, "We will not give you power to construct a line which you have no intention to carry out;" but this was not so in the present case; besides which, this very point upon this very paper has been decided in the Rugby and Huntingdon case¹, and this Committee will act upon that decision.

Mr. Macaulay, *contra*, on behalf of the promoters of the South Midland scheme.—The Rugby and Huntingdon case is not correctly stated in the reports; the point did not arise on cross-examination; the objection was there taken to the further progress of the bill, but here it is taken to the preamble. By the agreement it is stipulated that the deviation shall be made according to a plan arranged, and yet that plan is not before the Committee. It is not proper that parties should come to Parliament for a scheme which they do not intend to carry out, but make private agreements with individuals which are kept back from the Committee. The Coventry, Bedworth, and² Nuneaton case is applicable. The agreement is, that this line is not to be made, but a different one, according to a plan arranged, which plan is not produced. In *Lord Howden v. Simpson*, (10 Ad. & E., p. 801), Lord Denman says: "Whether an agreement of this sort, apart from the accident of concealment, must be necessarily invalid in itself, we need not decide. A state of things may perhaps be easily imagined, in which, from new information obtained after the first line had been applied for, it would become just, as well as expedient, to substitute another for it. But the question is, whether such a change can lawfully be made during the progress of the bill, by a secret compact between the future Company and certain individuals. Now the line by which a railway is to pass, is at the very root of the whole project. Alter that line, fresh notices, fresh plans, fresh consents, become necessary. Had the proposed deviation

¹ See *post*, p. 21.

² See *post*.

been introduced into this bill, it could not, under ordinary rules, have passed in that session. Suppose, then, that this agreement had been disclosed to Parliament, is it clear that the bill would have been allowed to pass in its present state? On the contrary, is it not at least equally probable that some such objections as the following might have prevailed? "You come to us for powers which you do not mean to use; you offer evidence in support of the preamble, and desire us to find it proved, when it is at the same time clear, from your own deliberate agreement, that another line is preferred, and intended to be adopted by you; if you are not as yet in a condition to ask us to legislate on that line, it is fitting that we should suspend legislating altogether, until we can have your whole plan before us at once."

The Committee decided that the preamble of the Leicester and Bedford Bill was proved, and that the preamble of the South Midland Railway Bill was not proved.

1846.

GROUP 29.

COMPRISING

Midland Railway (Syston to Peterborough Deviation and Branches) Bill.

Rugby and Stamford Railway Bill.

Rugby and Huntingdon Railway Bill.

South Midland Railway (Huntingdon Branch) Bill.

Midland Railway (Purchase of Oakham Canal) Bill.

Boston, Stamford, and Birmingham Railway (Stamford to Wisbeach) Bill.

THE RIGHT HON. HENRY LABOUCHERE,

M.P. FOR TAUNTON, CHAIRMAN.

Order of hearing—Competing line, what not — A petition praying to be heard against a bill entitles the petitioner to be heard against the preamble — Postponement of decision of Committee—Agreement to be proved in the regular way—Agreement to deviate, what not a ground for stopping progress of bill—Returns made under Mr. Duncombe's resolutions allowed by Committee to be inspected—Cross-examination of one petitioner's witnesses by another not allowed.

March 30. THE parties not being agreed as to the order in which the several bills should be taken into consideration,

Order of hearing.

The Committee-room was cleared, and the Committee determined that the bills should be taken in the order in which they had been read a second time. Parties called in and informed thereof.

The titles of the several bills were then read, and the parties for and against the same respectively appeared.

The Boston, Stamford, and Birmingham Railway (Stamford to Wisbeach) Bill not having been read a second time, the consideration thereof was adjourned.

1846.

*Midland Railway (Syston to Peterborough Deviation and
Branches) Bill.*

Mr. *Alexander*, Q. C., who with Mr. *Paget* appeared for March 30. the Melton Mowbray Canal, applied for a postponement of this bill until the Amalgamation Committee had made their report, on the ground that it was the intention of the promoters to divert the Oakham Canal, which was a feeder to the Melton Mowbray.

Mr. *Talbot*, Q. C., for the promoters, offered to abandon that portion of their scheme which involved the diversion of the Oakham Canal, and to take an alternative line which did not interfere therewith.

Mr. *Paget* said, that upon those terms he would withdraw the opposition.

Rugby and Stamford Railway Bill.

Mr. *Laing* opened the case of the promoters.

The Hon. Mr. *Watson* called and examined by Mr. *Laing*.

Mr. E. B. *Denison* beginning to cross-examine the witnesses on behalf of the Rugby and Huntingdon Railway—
Competing line.

Mr. *Laing* objected to Mr. *Denison's* right to cross-examine, as that line could not be considered as one competing with the Rugby and Stamford Railway.

Mr. *Denison* in reply.

The Committee deliberated, and decided that, under the circumstances of the case, the Rugby and Huntingdon Railway could not, in the opinion of the Committee, be considered a line competing with the Rugby and Stamford, but that with regard to the five miles where the two lines ran together, the Committee reserved to themselves the power to make arrangement by clauses, or otherwise, after both cases had been heard.

1846. Mr. Charles Liddell, engineer, examined by Mr. *Laing*, put in tables of roads crossed on levels, and tables of ascents, &c.; cross-examined by Mr. *Flood*.

In the course of the examination of the last witness, the case of Mrs. West and others, who had petitioned against the bill, having been adverted to, and Mr. *De Gex* having stated that he appeared as counsel for their petition—

Informality
in prayer of
petition.

An objection was taken by Mr. *Laing* to the petition, on the ground of informality, inasmuch as the petitioners did not pray specifically to be heard against the preamble of the bill.

The prayer of the petition was read, viz. :—

“That the petitioners may be heard by themselves, their agents, counsel, and witnesses in opposition to the said bill.”

The Committee determined that the petitioners might be heard by their counsel, as the preamble was included in the bill.

Postpone-
ment of de-
cision.

Mr. Serjt. *Wrangham* applied to the Committee to postpone their decision on the preamble of this bill, till the promoters of the Rugby and Huntingdon Railway had finished their case.

Mr. *Hildyard*, Q. C., *contrà*.

The Committee determined to proceed at once to a decision on the preamble of this bill.

Room cleared.

Committee deliberated.

Question, “That the preamble of the bill has been proved,” put, and *agreed to*.

The Chairman was instructed to inform the parties thereof, and that the Committee would now proceed with the clauses, but that they would not report the bill to the House till the case of the Rugby and Huntingdon Railway Bill had been concluded, in order to leave it in

their power to consider what would be the best arrangement to make with reference to the five miles which appeared to be common to both railways. 1846.

Parties called in and informed of the determination of the Committee.

Rugby and Huntingdon Railway Bill.

The Committee then proceeded with the case of the Rugby and Huntingdon Railway Bill, the clauses of the Rugby and Stamford being, for convenience' sake, postponed till the next morning.

Mr. Gill, called and examined by Mr. *Warren*; cross-examined by Mr. *Macaulay* and Mr. *Rawlinson*; re-examined by Mr. *Warren*.

In the course of cross-examination it was elicited from the witness that he was aware of an agreement on the part of the promoters with an influential landowner, the Duke of Buccleugh, to make a deviation at the town of Kettering, the effect of which would be to bring the line close to that town, instead of going a mile and a half off, according to the plans, &c. deposited. Agreement to deviate.

On the re-examination of the witness, Mr. *Warren* tendered to him a paper, and asked whether that was the agreement in question. The witness replied, that though he had heard a conversation on the subject of the deviation, yet the agreement had not been read to him.

Mr. *Warren* then proposed to read the agreement.

Mr. *Macaulay* objected to its being read, without having been first proved in the regular way.

The Committee decided, that if counsel required the promoters to prove the agreement, it should be done.

The agreement was then put in, and proved by the solicitor of the Company; it was without signature, and was as follows :—

1846.

“ *The Rugby and Huntingdon, and Leicester and Bedford.*

“ Memorandum.—It being understood that the Companies, or one of them, will make a deviation according to a plan arranged, from that part of the line common to both, between the Throp Road and the Wellingboro’ Road, if they can obtain the consents of landowners and others necessary to enable them to do so, or if not, that they, or one of them, will apply, as soon as circumstances will admit, to Parliament, during the next or subsequent session, for powers to make such deviation, and, in the meantime, will not put their compulsory powers for making the deposited line, between the points aforesaid, in force ; and that a commodious station shall be made convenient to the town of Kettering, and the Duke’s estate, upon some part of such deviation when made—

“ The Duke will consent, upon an agreement being entered into binding the parties on behalf of the Company in a sufficient sum as liquidated damages, to perform the agreement (to be exchanged after the Act for one of the same effect under the seal of the Company), to withdraw his dissent to the said bills, and to give his consent thereto, and to the intended deviation, as regards his Grace’s lands thereon, subject of course to terms to be made for the purchase thereof.”

Mr. *Austin*, Q. C., submitted that the agreement ought to put a stop to the further progress of the bill, as the promoters had bound themselves not to make the line as laid down on the plan, and cited a case of last session, viz. :—The Coventry, Bedworth, and Nuneaton Railway¹.

Mr. *Macaulay* followed on the same side.

Mr. *Rawlinson* was also heard in support of the application.

Mr. Serjt. *Wrangham*, *contra*.—This case differs from

¹ See *post*.

that cited, inasmuch as the agreement in the latter case bound the parties not to make their line according to their deposited plans, whereas the present agreement is only to make a deviation line, if the consent of the owners on that line be obtained: and, failing to obtain such consent, to suspend the proceedings of the Company in regard to the portion of the line at the proposed deviation, until the result of an application to Parliament, in the next or subsequent session, should be ascertained. There was a case two sessions ago before a Committee of the House of Lords, where an agreement for an exactly similar deviation, depending on the assent of the Duke of Wellington, was held not to be fatal to the promoters.

1846.

Mr. *Warren* followed on the same side.

Mr. *Austin*, in reply, contended that there was nothing in what had been urged by the opposite side to shake the principle of the objection, which was, that Parliament would not grant enabling powers where there was a knowledge that it was not intended to carry them into effect.

The Committee resolved, "That the promoters of the bill be desired to proceed with their case."

The bill was accordingly proceeded with.

Eventually, after hearing Mr. *Rawlinson* on behalf of an opposing landowner (Baroness Braye,) and Mr. *Hildyard* in reply for the South Midland, the Committee declared the preamble of the Rugby and Huntingdon Bill not proved, and that of the South Midland (Huntingdon Branch) proved; but they inserted a clause in that bill suspending the powers thereof, unless the bill for the main line of the South Midland, which was in another group (Group 27, see *ante*, p. 10) received the sanction of Parliament during the present Session.

Mr. *Macaulay* this day applied to the Committee, that *April 27.* the parties might be permitted to make a portion of their line, independently of the passing of the bill for the main line before the other Committee.

1846. The Committee determined not to consent to the application.

The main line of the South Midland, it may be proper here to remark, was afterwards thrown out, and the competing line (the Leicester and Bedford) passed unanimously, with which the Rugby and Huntingdon was connected exactly as the South Midland Branch was with the South Midland; and the consequence was that both bills (viz. the Rugby and Huntingdon and the South Midland Huntingdon Branch) were lost; and the only connection given between the Eastern Counties and Birmingham was by the Rugby and Stamford, which the Committee determined not to be a competing line with the Rugby and Huntingdon, and passed accordingly; though not only the five miles, in common with the Rugby and Huntingdon, but the greater part of the line, was used in the whole of the argument afterwards, as a line completing the Western communication with the South Midland Branch, the two lines joining at Market Harborough.

Boston, Stamford, and Birmingham Railway (Stamford to Wisbeach) Bill.

The documents required by the standing orders of the House, of the 23rd instant, were put in.

Mr. *Day* applied to the Committee to be allowed to make any objection that might apply to the said documents.

Returns
made under
Mr. Dun-
combe's re-
solutions,—
inspection of.

Parties called in, and informed that the Committee will not object to any parties interested inspecting those documents; but will not allow their contents to be contravened or made matter of argument before them.

Among the petitioners against the bill was the Corporation of Wisbeach; Mr. *Talbot* appeared on their behalf.

Mr. *Wing*, who appeared on behalf of the Duke of Bedford, a petitioner against the bill, prayed the Committee to cross-examine the witnesses called by Mr. *Talbot*.

1846.
Petitioners'
witnesses,
cross-exam-
ination of.

The Committee decided against the application.¹

In the result, the Committee determined that the preamble of the bill was proved, subject to a proviso requiring the promoters to insert a clause, binding themselves to introduce a bill in the next session of Parliament to effect a junction between their line and the harbour of Wisbeach, if this should not be done by any other railway bill passed during the present session.

¹ At the time of making this application the opposition of the Duke of Bedford had been withdrawn, the promoters having acceded to his views. The ground upon which Mr. *Wing* applied was, that the evidence of the witnesses called for the Corporation of Wisbeach tended to disprove the allegations in the Duke's petition, on the faith of which the arrangement had been made.

1846.

GROUP 21.

COMPRISING

*Great Western and Uxbridge Railway Bill.**Great Western and Wycombe Railway Bill.**London and Oxford Railway Bill.**Great Western Railway (Amendment and Purchase) Bill.*

G. FINCH, Esq., M.P. FOR RUTLANDSHIRE, CHAIRMAN.

Order of hearing—Costs, the Committee have no power to award ; but if an adjournment be asked for they can decline granting it, unless the party seeking that indulgence complies with their order respecting—Traffic tables directed to be furnished to opposing counsel, where he had no opportunity of inspecting the calculations from which they had been framed—A scheme was projected for a railway from London to Hereford, with a capital of 2½ millions ; subsequently the portion of the line from Oxford to Hereford was abandoned, and the capital reduced to £900,000—Held no objection to the progress of the bill, the subscribers' agreement authorising the Provisional Directors to alter or abandon any portion of the project, and to reduce the Capital—Line not included in group before the Committee cannot be heard.

Great Western Railway (Amendment and Purchase) Bill.

March 24. MR. Venables stated that this bill was unopposed, and no parties appearing against the same, it was resolved that the bill be referred to the Chairman of Ways and Means, and the members ordered to prepare and bring in the same, pursuant to the order of the House, of 26th February.

Question of
precedence.

Of the remaining bills, the Committee decided that the scheme of the London and Oxford, which was the most comprehensive, should be taken first.

Mr. Hildyard, Q. C., thereupon submitted to the Committee, that according to the rule adopted during the last session, those bills ought to be taken first which had been read a

second time. Mr. *Wells*, on behalf of the Great Western and Wycombe Bill, objected to this course, and urged upon the Committee the necessity of carrying out their resolution. 1846.

The Committee adhered to their decision that the London and Oxford Line should be considered first.

Mr. *Hildyard* then applied for a postponement until the following day, on the ground that, relying on the rule of last session being adopted in the present case, he was not prepared with the necessary witnesses.

Mr. *Wells* insisted that in such a case the promoters should be compelled to pay the costs of the day.

Mr. *Hildyard* denied the power of the Committee to grant costs.

The Chairman said, that though they had no specific power to grant costs, they could compel the promoters to proceed.

Finally, the Committee decided that as it was a convenient course to adjourn, they would determine nothing as to the costs.

London and Oxford Railway Bill.

Mr. *Hildyard*, Q. C., opened the case on behalf of the promoters. *March 24.*

The line, it appeared, as originally projected, was intended to run from London to Hereford, for which purpose a capital of 2½ millions was to be raised; but, subsequently, the original project had been modified, and instead of applying for powers to form the whole line, the Company proposed to confine their application to Parliament for a line from London to Oxford, with a branch to Thame, and to limit the capital of the Company to £900,000.

The subscribers' agreement authorised the provisional Directors (amongst other things) from time to time to

1846. determine and alter the course of the main railway, &c., and to abandon any portion of the project, and also to reduce the capital and shares.

The provisional Directors having determined to abridge the original project under the powers contained in this clause, caused advertisements to be inserted in the newspapers, stating their intention to apply to Parliament for powers to construct their line within these confined limits.

Traffic
tables to be
furnished to
opponents.

A witness (Mr. Dixon) was called by the promoters, to show from certain calculations that he had made, and had drawn up in tables, what would be the probable amount of certain branches of traffic on the line.

Mr. *Wells* objected to the evidence, upon the ground that it was founded on calculations, the accuracy of which he had had no opportunity of testing; and he submitted, that he ought to be furnished with a copy of the calculations before such evidence could be received.

Mr. *Calvert*, *contrà*, insisted that he was entitled to give the calculations in evidence, although he had not previously furnished copies of the tables to the opposite party.

The Committee decided that Mr. *Wells*' request ought to be complied with, and that the further examination of the witness should be postponed until the next day, for that purpose.

April 5.
Validity of
Parliamentary
contract.

Mr. *Talbot*, Q. C., here submitted to the Committee, that on the subscription contract, and the other evidence before them, this bill being a bill for a railway from London to Oxford, with a branch to Thame, instead of a railway from London to Hereford, as originally projected, ought not to be allowed to proceed further; that being such a substantial alteration in the scheme, as released the subscribers from their engagements under the subscription contract.

Mr. *Hildyard*, Q. C., and Mr. *Calvert*, *contrà*.—This is a standing order objection, and one, consequently, which it is

not competent for this Committee to entertain. The provisional Directors in thus modifying the scheme, did not exceed the powers vested in them by the subscribers' agreement (as to these powers see *ante*, pp. 27, 28.) The Directors are in the position of trustees for the Company: their agents and funds are the agents and funds of the Company. Under these circumstances they may be restrained by a court of equity at the suit of the subscribers, if they are transgressing the powers vested in them by the subscribers' agreement. 1846.

Mr. *Talbot*, Q. C., in reply.—This is an objection which it is competent for the present Committee to entertain, inasmuch as it goes to show that the scheme before them is impracticable, and is therefore an objection on the merits. The promoters have no remedy in equity, inasmuch as a court of equity will not interfere with proceedings in Parliament; besides, the power of abandonment given to the provisional Directors by the subscribers' agreement has never arisen, by reason of the non-completion of the subscribers' list.

The Committee decided that the objection taken by Mr. *Talbot* to the bill was not valid, and that the promoters should proceed,¹ though eventually the preamble of the bill was negatived.

Mr. *Martin* here stated to the Committee, that he appeared for a competing line which had not been included in this group by the classification Committee.

April 6.
Line not included in group before Committee cannot be heard.

The Chairman said that they could only consider such lines as were sent to them by the House, and until then they could not recognise the line in question.

¹ See the case of the East Coast Railway Bill, *post*, p. 50.

1846.

GROUP 15.

South Eastern (Tunbridge Wells to Hastings and Rye) Bill.

DANIEL O'CONNELL, Esq., M.P. FOR DUBLIN,

CHAIRMAN.

Competing line—Apprehended loss of traffic to an existing Company by the construction of a new line, does not give the former a *locus standi* against the latter scheme—Postponement of cross-examination—Traffic tables of a former session laid before the Board of Trade by the Company, and deposited in the Private Bill Office, not receivable in evidence on behalf of opposing landowner—*Contrà* in House of Lords—The report of a Committee of a former session not receivable in evidence.

March 16.
Competing
line *locus*
standi.

THIS was a bill for enabling the South Eastern Railway Company to make a railway from Tunbridge Wells to join the Rye and Ashford Extension, of the Brighton, Lewes, and Hastings Railway, near Hastings.

Among the petitions against the bill referred to the Committee, was one from the London and Brighton Railway Company, (who were also the proprietors of the Brighton, Lewes, and Hastings Railway, and whose line from London to Hastings was only 2½ miles further than the proposed line), alleging that the South Eastern line was intended to deprive the petitioners of a large and important branch of traffic between Hastings and London, for the accommodation of which, and on the credit whereof the Brighton, Lewes, and Hastings Railway was established. That their line had been, together with a scheme proposed by the South Eastern Company, referred to a select Committee of both Houses as competing schemes, and that by their decision the accommodation of the London and Hastings traffic was assigned to the Brighton,

Lewes, and Hastings Line, and that the Board of Trade had refused to sanction the present scheme, when proposed last year, on the ground that it would be destructive to the coast line : that a great and serious injury to the petitioners would ensue, and no corresponding advantage would be derived by the public from the present bill, inasmuch as between Tunbridge Wells and Hastings, and the intervening villages approached by the proposed railway, there existed but a very inconsiderable amount of traffic, and one wholly inadequate to the maintenance of a railway, and of such a description as not to require any other means of communication than those which at present existed, whilst a considerable part of the population in the northern parts of such district was already accommodated both for transit to London and the greater part of the county of Kent, by existing and contemplated lines.

1846.

Mr. *Austin*, Q. C., on behalf of the promoters, objected to the right of the London and Brighton Railway Company to be heard upon the above petition ; inasmuch as that line could not be considered as a competing line in a parliamentary sense.

Mr. *Hill*, Q. C., was heard in answer.

The Committee determined that the petitioners could not be heard.

Mr. *Hill* begged to call the attention of the Committee to the case of Sir Godfrey Webster, a petitioner against the bill, as to which there was a difficulty, owing to the House having adjourned on the day when the petition should have been presented. In consequence of this, he (Mr. *Hill*) was not prepared to ask any questions on behalf of Sir Godfrey Webster, and therefore, with the permission of the Committee, would postpone the cross-examination till the next day.

Postpone-
ment of
cross-ex-
amination.

The Committee then adjourned, certain formal documents having been first put in.

1846.

Traffic
tables of
former year.

The case of the bill being closed, that of Lord Liverpool, an opposing landowner, was then gone into.

On the part of the petitioner, Mr. *Mellor* called a witness (Mr. Smith) to produce the traffic tables laid before the Board of Trade last session by the South Eastern Company, and deposited in the Private Bill Office, with reference to the Tunbridge and Hastings Railway of that session.

Mr. *Alexander*, Q.C., on behalf of the promoters, objected that this was not legitimate evidence, as it related to a totally different period, and could not be given in as a statement by the Company, with reference to the present scheme.

The Committee decided that the evidence could not be received.

Mr. Rowland Hill, the late chairman of the London and Brighton Railway Company, was then called as a witness on behalf of the petitioner.

From his evidence, it appeared that in 1844 a bill had been introduced into Parliament by the Brighton, Lewes, and Hastings Railway Company, and that another bill (viz., the Headcorn and Hastings) had been brought in, or at least promoted by the South Eastern.

Report of
Committee
of former
session.

Mr. *Mellor*, proposing to put in the report of the Committee which he stated to have sat upon those bills—

Mr. *Alexander*, Q. C., on behalf of the promoters, objected to the reception of the evidence, inasmuch as it could not affect Lord Liverpool's case before the present Committee: it was only evidence as to the Brighton case.

The Committee decided that the evidence should not be received.

Subsequently in this case, the Lords' Committee (for the report of which see *post*), the Duke of Leinster Chairman, decided that the London and Brighton Railway Company had no *locus standi*; but they allowed the traffic tables to be put in on the part of Lord Liverpool.

1846.

GROUP 15.

Brighton and Chichester Railway (Bognor and Littlehampton Branches) Bill.

DANIEL O'CONNELL, Esq. M.P. FOR DUBLIN,
(CHAIRMAN.)

The Committee allowed the merits of a bill to be gone into, though a sufficient time had not elapsed to bring the bill regularly before them within Standing Order 117.—Adjournment on ground of surprise in the evidence. —Committee will entertain objection to bill on the ground of there being errors in the sections to such an extent as to interfere with the construction of the line.

Mr. Johnson, who appeared for the Chichester and Bognor Independent Line, which was a competing line with that before the Committee, was heard against proceeding, on the ground of the latter bill not being in a position to be heard before the Committee, as a sufficient time had not elapsed since the second reading to bring the bill before them in accordance with standing order 117, of the House of Commons. The Committee, however, resolved to proceed with the consideration of both bills, intimating that the parties should not be prejudiced by that course.

Merits of
bill gone
into though
sufficient
time not
elapsed
within
Standing
Order 117.

Mr. Rastrick, the Engineer of the promoters, having been called by them, alleged in his examination that there was an error in the sections of the competing Line, (which sought power to cross the Company's Line The Brighton and Chichester on a level) commencing at a given point, and increasing to sixteen feet at the point of junction. The Line could not therefore be constructed according to the deposited plans and sections.

Mr. Johnson, on behalf of the promoters of the latter

1846.
Adjourn-
ment on the
ground of
surprise.

Line (after cross-examining the witness as to the alleged error) applied for an adjournment of the proceedings, upon the ground that this latter evidence had come upon the promoters by surprise, and they were anxious for an opportunity of sending their own engineer down to inspect and verify the levels which they believed to be correct.

Mr. *Austin*, Q.C., in opposition to the adjournment, urged that it would be sufficient for the engineer of the Chichester and Bognor Line to overlook the sections prepared by Mr. *Rastrick*, and then if there should be any dispute between them, a third engineer might be called in.

The Committee stated that they would meet the ensuing day, and proceed with the case of the landowners, and then, if the parties were prepared to proceed, after an inspection of Mr. *Rastrick's* sections, the Committee would hear the evidence; if not, they would then deal with the question as to any further adjournment.

The engineers on both sides went down for an actual survey.

The case of the Brighton Line being closed, Mr. *Johnson* proceeded to adduce evidence on behalf of the Bognor and Chichester scheme.

In the course of this evidence, the engineers having returned, the question was again about to be raised as to the errors in the sections of the latter Line.

Errors in
levels.

Mr. *Johnson*, on behalf of the Bognor and Chichester Bill, contended that the Select Committee on the bill had nothing to do with the subject of these errors in the sections, as it was the province of the Standing Orders Committee to determine upon them. The bill had passed through the sub-committee on the petition without objection, and the parliamentary rule of practice was, that the Committee on the bill could not, unless by special order of the House (which there was none), again examine into the question of compliance with the Standing Orders.

Mr. *Merewether*, on the other side, contended that the objection was one upon the merits, for by the 11th section of the Railway Clauses Consolidation Act, a Railway Company could not vary their levels more than 5 feet in the country, or 2 feet in towns, and within that limitation the promoters could not construct their Line according to their deposited plans and sections. 1846.

The Chairman said that he would consult the Speaker as to the power of the Committee, to entertain the question with reference to the inaccuracy in the levels.

The ensuing day, the Chairman inquired whether the promoters of the Bognor and Chichester Railway were prepared with any evidence to rebut the testimony of Mr. Rastrick; none being forthcoming, the Chairman intimated that, in the opinion of the Committee, Mr. Rastrick's evidence on the subject of the errors in the sections of the Bognor and Chichester Line remained uncontradicted, and that he (the Chairman) had applied to the Speaker on the subject, who had declared that he felt not the least doubt that the Committee were competent and bound to entertain the objection with regard to the errors in the levels, and that if they were found to exist to the extent alleged, the bill could not be allowed to proceed; and this opinion of the Speaker, the Chairman said, was to his mind quite conclusive (1).

Mr. *Johnson* thereupon, on the part of the promoters of the Bognor and Chichester Line, declared that he was obliged to admit the existence of errors in the levels, to an extent which would interfere with the construction of the Line according to the deposited plans and sections, and that after what had passed he feared this must, for the

(1) See case of Cambridge and Lincoln Line, where similar objection entertained by Committee on bill.—*Walford on Railways*, App., p. 226. Case of London and York Line, *ib.*, p. 232. Case of Direct Portsmouth Atmospheric Line, and of Glasgow Junction, *ib.*, pp. 327, 328.

1846. present, be deemed fatal to the bill before the Committee. No further evidence was afterwards offered in support of it.

The Committee found the preamble of the Brighton and Chichester Bill proved.

N.B.—The Committee made no report on the Bognor and Chichester Bill, as it had not been regularly referred to them.

GROUP 19.

Bridgewater and Taunton Canal Railway and Harbour Bill.

LORD HARRY VANE, M.P. FOR SOUTH DURHAM,
(CHAIRMAN).

Mr. Duncombe's resolutions, what a compliance with, where declaration in lieu of subscription contract.—Statutes, construction of.—By the 51 Geo. III., c. 60, sec. 74, it was enacted that it should be lawful for a Canal Company to raise amongst themselves a sum of 420,000*l.*, for the purposes of the canal. By sec. 77 it was enacted that if the sum of 420,000*l.* should be found insufficient, it should be lawful for the Company to contribute amongst themselves the further sum of 150,000*l.*; but that if the Company should be desirous of raising that sum by mortgage, they might do so, sect. 78.—By the 7th Wm. IV., c. 11, the Company were empowered to borrow, by way of mortgage, any sum not exceeding, including what they then owed on mortgage, 100,000*l.*—The sum of 100,000*l.* having been raised by mortgage, *Held*, that the Company had power to raise a further sum of 50,000*l.* by contribution amongst themselves, if the whole sum of 420,000*l.*, when raised, should prove insufficient, so as to show a compliance with the above resolutions.

THIS was a scheme for the conversion of the Bridgewater and Taunton Canal into a Railway, and for continuing the line from Bridgewater to Stolford in Bridgewater Bay. *April 27.*

The capital estimated to be requisite for this purpose was 390,000*l.*, which it was proposed to raise in the manner hereinafter mentioned.

Mr. Serjt. *Wrangham*, with whom were Mr. *Wells* and Mr. *Hawkins*, opened the case for the promoters. The canal, it appeared, was originally formed under the authority of the 51 Geo. III., c. 60, which empowered the Company to make a canal from the river Avon, near a place called Morgan's Pill, in the county of Somerset, to the river Tone, and also a navigable cut from the canal to certain collieries, &c.

Sect. 74 enacted, that in order to enable the Company to

1846. carry on their undertaking, it should be lawful for ~~them~~ to raise and contribute among themselves, in such proportions as to them should seem meet and convenient, such sum or sums of money as they should think necessary for the making, carrying on, and completing of the said canal, &c., thereby authorized to be made, not exceeding in the whole the sum of 420,000*l.* (except as thereafter mentioned), and that the same should be divided into the number of shares thereafter directed.

The 75th section declared that the sum of 420,000*l.* should be divided into 4,200 shares.

The 77th section enacted, that if the sum of 420,000*l.* should be found insufficient for the making, completing, and maintaining the said canal and other works thereby authorized to be made, then it should be lawful for the Company to contribute among themselves any further sum or sums of money for those purposes, not exceeding in the whole 150,000*l.*, to be raised and contributed by the several persons possessed of the said 4,200 shares. Provided (section 78), that if the said Company should be desirous of raising the said additional sum of 150,000*l.*, or any part thereof, by mortgage, then it should be lawful for them to do so.

The 5th George IV., cap. 120, empowered the Company to vary the line of their canal, and changed their name from the Bristol and Taunton to the Bridgewater and Taunton Canal Company.

The 5th section of the same act extended all the powers, &c. of the former Act to the latter, so far as they remained applicable, (in regard of a certain portion of the canal those powers had expired; *see* 51 Geo. III., chap. 60, sec. 21,) and were not altered or repealed thereby.

The 27th section gave a discretionary power to the Company touching the sale of certain forfeited shares, and provided for the application of all moneys of the Company

(including the proceeds of any such sale) to the combined purposes of the two Acts taken together ; and the 28th provided for the extension of the Company's powers of mortgaging, to their land and other property, the money so raised to be applied in the manner just mentioned. 1846.

The 2nd William IV., chap. 43, empowered the Company to purchase the Tone Navigation, they undertaking all the liabilities, &c., and inheriting the powers, &c. of the former conservators of that river.

By the 7th William IV., chap. 11, after reciting the before-mentioned acts, the Company were empowered to make certain other works, &c. ; and by the 51st section it was enacted, that it should be lawful for the Company, from time to time, by any order of any general meeting of the said Company, whether ordinary or special, to borrow and take up at interest, *by way of mortgage*, any sum or sums of money, not exceeding in the whole, including what they then owed on mortgage, the sum of 100,000*l.* on the credit of the undertaking, including the works authorized by the former Acts, and that Act respectively to be made ; and the property generally of the Company, and the mortgages, then already granted by the Company, were to be deemed to include the works by the first-mentioned Acts, and that act respectively, authorized to be made and constructed, and all lands of the said Company.

The 55th section enacted that the moneys arising from the sale of the forfeited shares referred to might be applied towards the discharge of the Company's mortgage debts, present or future, or to any other purposes of the above Acts.

The 56th section extended the powers, &c. of the former Acts to the present, so far as they remained applicable, and were not repealed, altered, &c.

The returns under Mr. Duncombe's resolutions having been put in,

1846.

Mr. *Talbot*, Q. C., with whom was Mr. *Osborne*,¹ voted to the case being proceeded with, on the ground that the Company had not shown that they had power to raise the proposed capital for the completion of their works, so as to satisfy the declaration made by them in lieu of a subscription-contract.

Mr. *Serjeant Wrangham*, contra, submitted that the point had been raised and decided before the Standing Orders' Committee, and even if it had not, that they had the power to entertain the question, and were the proper tribunal for determining it, and that consequently this Committee could not go into the question (1).

After examining Mr. Coates, the Parliamentary agent, as to whether the point had been raised before the Standing Orders' Committee, and examining the short-hand writers' notes, the Chairman stated that he would see some of the members of the Standing Orders' Committee before this Committee would decide the point.

On the following day, the Chairman stated that he had been unable to see any of the members of the Standing Orders' Committee; and therefore requested counsel on each side to state the points on which they relied.

Mr. *Osborne* then contended that the promoters had not shown that they had the proposed capital to complete the undertaking.—That the Company had power, by the 51 George III., to raise a fund of 420,000*l.* and 150,000*l.* by mortgage or by shares; but by the 7 Will. IV. c. 11, s. 51, the latter sum was limited to 100,000*l.*, so that in the whole they had power to raise 520,000*l.*; that 100,000*l.* had already been raised by mortgage, and 71,200*l.* by shares, leaving a balance applicable to the present undertaking of only 348,800*l.*, and that not subscribed for; he contended, further, that the power authorizing the raising

(1) As to the power of this Committee on the Bill to entertain a question which might have been raised before the Standing Orders' Committee, see Group 15, *ante* 35, and note (1) *ante*, p. 35; see also Group 14, *post*, pp. 68, *et seq.*

money by mortgage could not come into operation until the 420,000*l.* had been expended. 1846.

Mr. *Wells*, contra, insisted, that, under the 51 Geo. III., the Company had power to raise the sum of 420,000*l.*, and 150,000*l.* by mortgage or the issue of shares, and that the 7 Will. IV., c. 11, limited their power to mortgage to 100,000*l.*, but did not affect their power under the former Act, to raise, by the issue of shares, any further sum not exceeding 50,000*l.*, so that they would now have power to raise a sum of 398,800*l.*, applicable to the present undertaking.

Mr. *Fitzherbert* appeared for the corporation of Bridgewater, and addressed the Committee against the Bill.

The Committee after having consulted the Speaker, said that they had determined to take the opinion of the Attorney and Solicitor General on the point: and they directed counsel to agree to a case to be submitted to them.

The following is the case and opinion:—

“ The Honourable the Committee of the House of Commons, to whom this Bill is referred, request the attention of the Attorney-General, and Solicitor-General to the bearing of the following acts of Parliament sent herewith, viz. :—

51st, Geo. III., Cap. 60,—Sec. 21, 74, 75, 77, 78.

5th, Geo. IV., Cap. 120,—Sec. 1, 2, 4, 5, 27, 28.

2nd, William IV., Cap. 43,—Sec. 1, 3, 9.

7th, William IV., Cap. 11,—Sec. 1, 8, 11, 16, 51, 55, and 56.

“ And request their opinion,

“ Whether the whole sum of 420,000*l.* empowered to be raised under the 74th section, 51st Geo. III. not having yet been spent, the Company are empowered to raise any (and if so, what) further sum after the expenditure of the 420,000*l.* for the purpose of the existing Acts under the said section 77, and the following section of the 51st,

1846. Geo. III. c. 60, and how far the powers conferred by these sections are affected by the 7th Will. IV. cap. 11, sec. 51, the sum of 100,000*l.* having been already raised by mortgage under the 51st sec. of 7th Will. IV.

“*Opinion.*—If the whole sum of 420,000*l.*, when raised shall be found insufficient for the execution of the whole of the works taken together, it will be competent to the Company to raise, by the increase of shares, a further sum not exceeding (inclusive of the money raised on mortgage) 150,000*l.* As 100,000*l.* appears to have been raised on mortgage, it follows that only 50,000*l.* more can be raised by an increase in the number of shares.

“It is not competent to the Company to raise any more by way of mortgage than the sum of 100,000*l.* already raised.

“FREDK. THESIGER.

“FITZROY KELLY.”

Upon the announcement of the opinion, the Committee directed the counsel for the Bill to proceed.

Eventually, the Committee decided that the preamble of the Bill was not proved.

GROUP 19.

Chard Canal Railway Bill.

LORD HARRY VANE, M.P. FOR SOUTH DURHAM,
(CHAIRMAN.)

Mr. Duncombe's resolutions—what a compliance with, where declaration in lieu of subscription contract—Statutes, construction of—By the 4th Will. IV., c. 53, power was given to a Company to make a canal with a fund which was to be raised by the issue of 50*l.* shares, and the Company were authorized at any time to purchase any of the shares if they should think fit—By the 3rd Vic. c. 1., the Company were empowered to raise a sum of 80,000*l.* for the purposes of the canal, in lieu of a portion of the former fund. The Company raised the whole of the remaining portion of the fund authorized under the former Act, and 39,680*l.* under the latter. The Company being desirous of obtaining powers from Parliament for converting a portion of their canal into a railway with a view to carry out this object, purchased 1796 shares in the canal, and then in lieu of a subscription-contract made a declaration (under Standing Order 30) that they had a disposable fund of 130,000*l.* (the estimated cost of the proposed works). The shares so purchased taken at par represented a capital of 89,000*l.*, which with the balance authorized to be raised by the 3rd Vic. c. 1, made up the required amount :—*Held*, that the Company had power to raise the necessary capital, and that the resolutions had been complied with.

THIS was a scheme for the conversion of a portion of *April 29.*
the Chard Canal (namely, from Taunton to Ilminster)
into a railway.

The Canal Company were incorporated by the 4th Will. IV. c. 53, which authorized the Company to make the canal, for which purpose they were empowered to raise amongst themselves a capital of 57,000*l.* in the first instance, and afterwards a further sum of 20,000*l.* in 50*l.* shares.

By the 3rd Vict. c. 1, s. 2, the power to raise the

1846. 20,000*l.* was repealed ; but, by sect. 3, the Company were authorized to raise 80,000*l.* by a creation of new shares of 50*l.* each.

By the 4th Will. IV., c. 53, s. 66, the Company were authorized, by themselves or their Committee, at any time or times, if the same should appear likely to promote the interest of the said Company, to purchase and take, in the name of the said Company, a transfer of any share or shares which might happen to be in the market for sale and the same, or any of them might be retained for any period or periods which might seem expedient, and then resold by the Company by themselves or their Committee, and the produce of such sales was to be applied in such manner as the money invested in such purchases would have been applicable, &c.

The promoters of the above project, by way of complying with Standing Order 30, substituted in lieu of a subscription-contract, a declaration that the funds for executing the works would be defrayed by the Company out of the moneys which they were authorized to raise under the acts relating to the Chard Canal Navigation, whereof upwards of the sum of 130,000*l.*, being the estimated costs of the works, remained unexpended and at the disposal of the Company.

With regard to this declaration it appeared that, under the first-mentioned Act, 57,000*l.* had been raised for the purposes of the canal, and also a further sum of 39,680*l.* under the 3rd Vict., leaving a balance of 40,320*l.* applicable to the purposes of the present project.

It appeared further, that in order to make up the required amount of 130,000*l.* the Company had become the purchasers (at what sum did not appear) of 1796 shares in the canal, which, taken at par, would represent a capital of 89,800*l.*; this, with the sum of 40,320*l.*, the balance which they had not raised under 3rd Vict., c. 1,

represented, as the promoters contended, a capital of 130,120*l*. 1846.

The returns under Mr. Duncombe's resolutions having been put in.

Mr. *Osborne* submitted that the promoters were not in a condition to come before the Committee, that it did not appear that they had a capital of 130,000*l*. remaining unexpended or at the disposal of the Company; that they had exhausted their powers of raising money under the first Act, and under the second they could raise no further sum than 40,320*l*., that even that sum was not and never might be subscribed for, and that consequently Parliament would have no guarantee, that, if it sanctioned the new project, funds would be forthcoming to execute the works.

Mr. *Wells*, contra, submitted that the Company were in a condition to raise the necessary funds in compliance with their declaration; that they had power, to raise 40,320*l*. under the 3rd Vict., which, with the shares repurchased under the 66th section of 4th Wm. IV., made up a capital of 130,120*l*., sufficient to satisfy the terms of the declaration, made under the 30th Standing Order.

The Committee determined that a similar case to that prepared in the case of the Bridgewater and Taunton Canal should be laid before the Attorney and Solicitor General for their opinion; ultimately, however, this was abandoned by general consent of the parties, and no case was prepared.

Mr. *Osborne* also objected, that although it were conceded that the Company had power to raise 40,320*l*. under the 3rd Vict., c. 1, yet that it was incumbent on the promoters to show that the 1796 shares were of the value represented; that their value was what they would fetch in the market, of which some evidence ought to be given; that they could not have been bought up at par, because there would have been no object in it, as the Company might have paid off

1846. the shares, or have made up their capital with the purchase-money.

Mr. *Wells*, contra, was stopped by the Committee, who said that they had no doubt on the question, and directed that the promoters should proceed with the case.

Eventually the Committee decided that the preamble was proved.

GROUP 35.

*Ambergate, Nottingham, and Boston Railway.
East Coast Railway.*

GEO. BANKES, ESQUIRE, M. P. FOR DORSETSHIRE,
(CHAIRMAN.)

Competing lines (what not)—Returns under Mr. Duncombe's resolutions—*Locus standi* of Corporation—Cross-examination of Counsel for a Corporation opposing scheme, must be confined as much as possible to the injury likely to arise to its particular interests—Cross-examination with reference to a projected line allowed—Abandonment of a portion of original scheme.

Ambergate, Nottingham, and Boston Railway.

THE case for the bill being closed, Mr. *Burke*, parliamentary agent, in the absence of Mr. *Baines*, who appeared What not competing lines. for the Midland Railway, (Nottingham to Mansfield,) applied to the Committee to withhold their decision on the preamble, as there had been an agreement between the two Companies, which the Ambergate Company were not disposed to carry out.

Mr. Serjt. *Clarke*, contra.

The Committee decided that they did not consider the Ambergate, Nottingham, and Boston, and the Nottingham to Mansfield Railway, in the light of competing lines; and that they would proceed with the former without reference to the other, which they would consider when it came before them.

Mr. *Alexander*, Q. C., applied on behalf of the Nottingham, Mansfield, and Midland Junction, to be allowed to oppose the Ambergate; but the Committee decided that they did not consider them competing lines, and declared

1846. the preamble of the Ambergate, Nottingham, and Boston Railway Bill proved.

East Coast Railway.

Mr. Duncombe's resolutions.

On the returns under Mr. Duncombe's resolutions being handed in, a question arose as to the course to be pursued relative to them.

Mr. *W. H. Cooke*, on behalf of the promoters, contended that it was not competent for the opponents of the Line to impugn the accuracy of the returns in question at that stage of the proceedings, it having been decided by the Speaker that a separate petition to the House was necessary before parties could be allowed to enter into such inquiry, though the Committee might see that they were correct.

Mr. *Slade*, contra, insisted on the right of the opponents of the Bill to have access to these documents; all they wanted was the opportunity of ascertaining that they were correct.

The Committee decided with Mr. *Cooke*, and called upon that gentleman to open the case of the promoters.

Corporation *locus standi*.

At the close of the examination of the first witness for the promoters, Mr. *Slade*, who appeared on behalf of the Corporation of Wisbeach, proposed to cross-examine the witness.

Mr. *Cooke* submitted that the corporation of Wisbeach did not possess sufficient interest to entitle them to be heard on the preamble, but that their opposition was a matter arising on the clauses.

Mr. *Slade*, contra, contended that he had a right to be heard; that the port extended to the point where it was intended by the promoters to build a bridge; that the corporation were the guardians of the port and had a right to interfere for its protection contending as they did that the railway would materially impede the navigation; that they

had powers under an act of Parliament to improve the harbour, and to prevent any obstruction to the navigation; and that the proposed new cut, as it had been called, would extend to the port.

1846.

Mr. *Cooke*, in reply, contended that the time for the opposition of the corporation was, after the preamble was passed, when they might require a clause to be inserted by which any impediment to the navigation in question might be prevented, should such clause be thought desirable after the opinion of the Admiralty thereupon; that they had no right to appear against the preamble, except as landowners or as a competing line.

The Committee decided that the corporation of Wisbeach had a *locus standi* against the preamble of the bill.

Mr. *Slade* then proceeded to cross-examine the witness generally, on the course of the traffic, etc. Cross-examination.

Mr. *Cooke* submitted that the cross-examination of Mr. *Slade* should be confined to matters affecting the interests of the Corporation, and not extended to the general merits of the scheme; that the questions put by Mr. *Slade* were too general in their nature, and were only allowable to counsel for a competing line, or in the case of landowners.

Mr. *Slade*, *contra*, insisted that he was perfectly regular, and he cited a case of the corporation of Liverpool.

The Chairman stated that the Committee were in favour of hearing Mr. *Slade*.

Mr. *Cooke* then submitted that Mr. *Slade* must confine his cross-examination to the injury likely to be caused to the navigation, as the petition of the corporation applied only to that.

The Chairman intimated that it would be impossible to lay down so strict a rule, but that Mr. *Slade* must confine himself as much as possible within those limits.

In the course of the cross-examination of the above witness by Mr. *Saunders*, for certain landowners, he was Question as to projected line when allowed.

1844. asked whether he knew that there was a line projected between Lynn and Ely.

Mr. *Cooke* objected to any questions having reference to that line, it not having the same termini, or being in the same group. He relied on a case in the Western Group of the preceding year (Mr. Macaulay, chairman), when a line from Plymouth to Falmouth being before the Committee, another line not before the Committee was brought forward, to show that a better line could be constructed: but the Committee refused ¹ to hear the case of the latter line.

The Committee decided that the counsel might examine as *amicus curiæ* relative to the line in question.

Abandon-
ment of por-
tion of line.

Mr. *Webster*, who appeared for certain opposing land-owners, now submitted that the promoters ought not to proceed further with their bill, as their subscription contract was fraudulent and invalid.

Mr. *Cooke*, *contra*, contended, that the objection could not be gone into, there being no petition before the Committee complaining of the alleged inaccuracies as required by the standing orders of the House. He further mentioned that the subscription contract was a document which had not been brought before Committees until Duncombe's resolutions were passed in this Session of Parliament.

The Committee decided to hear Mr. *Webster's* objection, as *amicus curiæ*, as they had a right, if they chose, to avail themselves of the suggestions of counsel.

Mr. *Webster* then stated, that the scheme upon which the subscriptions were entered into, was for a line from Lynn to Great Grimsby, whereas the scheme before the Committee was for a line from Lynn to Boston only; that the subscribers consequently, could not be compelled to pay up their subscriptions, having subscribed on the

¹ See Walford on Railways, app., p. cccxxix.

faith of the line being an integral scheme from Lynn to Great Grimsby, and that the provisional Committee were not authorised to apply to Parliament for a small portion only of that line; that the subscribers never subscribed for this smaller line; that if the line were sanctioned, the shareholders would be released from any obligation to pay the amount subscribed.

Mr. *Cooke*, *contra*, submitted that this objection ought to have been taken before the Standing Orders Committee, and that this Committee had not the power of deciding the question; that a similar objection had been taken and disallowed before the Standing Orders Committee, in the case of the Great Eastern and Western Company, which proposed to make a line from Yarmouth to Swansea; but having made arrangements with the Great Western and other lines, had given up all that portion of their scheme, except what was between Abergavenny and Merthyr Tydvil; that the directors of the East Coast had power, by virtue of a clause in the subscription contract, "to make such application to Parliament as they might think fit, in the next session of Parliament, or any subsequent session or sessions, for any acts or act, to carry into effect the said railway communication, and the works connected therewith, *or any part or parts thereof*, and to fix upon, and from time to time to alter and vary the termini, route, or line of the said railway communication, and the sites or spots of the stations, depôts, and works connected therewith, and to determine whether, and how far, and *to what extent, the said undertaking should be carried out, deferred, or abandoned*; and in like manner, what branches, if any, to the said main railway should form a part of the said undertaking; and in case the first act should authorise the construction of a part only of the said communication, to make in any subsequent session such application or applications as they

1846. might think advisable for the construction of the remainder of the said railway communication, and to make arrangements with existing or other companies for the abandonment or alteration of the line." That the abandonment of that portion of their scheme which lay between Boston and Great Grimsby was, in consequence of an arrangement made with another Company, who had undertaken to construct it, and by which arrangement an integral line from Lynn to Grimsby would be made, without requiring the capital of the East Coast shareholders to construct more than half the distance. That it was an arrangement of every-day occurrence, and that as the Directors were authorised to abandon any portion of the original line, the subscribers would be bound to pay their subscriptions, and the supposed objection did not apply.

The Committee decided that the objection could not be sustained.

Eventually the Committee found the preamble of the bill not proved.

1846.

(GROUP 14.)

*North Kent Railway Bill.**South Eastern Railway (Canterbury to Dover) Bill.**South Eastern Railway (Greenwich to Chilham, near Canterbury, with branches to Sheerness and Faversham Creek) Bill.**South Eastern Railway (Maidstone to Strood, near Rochester) Bill.*E. D. PROTHEROE, ESQ., M.P. FOR HALIFAX,
(CHAIRMAN.)

NORTH KENT RAILWAY BILL.

Statement of facts, counsel confined to, in opening case.—Traffic, evidence *March 17.* dispensed with.—Individual witness' opinion of feelings of inhabitants not entitled to much weight, except as ascertained at public meetings.—Witness called on behalf of a scheme not to be examined as to objections of opposing landowners till their cases are gone into.—Estimates, interchange of.—Petitioner cannot be heard against the preamble, where no prayer in the petition against the preamble.—Cross-examination by Vestry Clerk of parish, course of.—Cases of opposing landowners, order of taking.—Examination of witnesses, course of.—Inhabitants of parish, *locus standi* of.—Report of Board of Trade of previous year admitted in evidence.—A witness attending as a deputation from parties who have petitioned in favour of a Bill cannot be asked as to the opinions of those deputing him.—An opposing landowner is not entitled to cross-examine a witness with respect to a line that does not affect his property.—Opinions of private individuals, admissibility of.—Cross-examination as to scheme not before the Committee, when permitted.—Landowner not permitted to go into general merits of Bill.—The Committee will not enter into matters pending before a court of law.—Rebutting evidence, what is.—Omissions from the estimates.—Evidence, admissibility of, for the promoters after the close of their case.—Evidence, Board of Admiralty, consent of.—Omission from the estimates.—A line was projected from Greenwich to Chilham (near Canterbury), this was proposed to be effected by the construction of a new line from Greenwich to Gravesend, by purchasing a railway, &c. already constructed from Gravesend to Rochester, and by the construction of a new line thence to Chilham; the estimate did not include the sum to be paid for the Gravesend and Rochester Line, nor

1846. was there any power contained in the Bill enabling the Company to raise money for the purchase of that line.—Held, that this objection was fatal to the Bill as a whole ; and that the objection might be taken before this Committee.—The Committee, however, amended the preamble of the Bill by limiting it to that portion between Greenwich and Gravesend.

Statement of
acts. IN the course of his opening address on behalf of the above line, Mr. Serjeant *Wrangham* was discussing the question of competition and monopoly as it bore upon the case of the competing lines before the Committee.

The Chairman here asked Mr. Serjt. *Wrangham*, whether he thought that he (Mr. Serjt. *Wrangham*) was restricting himself to a statement of facts, remarking at the same time that he did not wish to interpret the suggestions very strictly ?¹

Mr. Serjt. *Wrangham* expressed his submission in the view taken by the Committee, of the suggestion in question, and accordingly abstained from pressing his observations on the above matter.

Traffic evidence dispensed with. At the close of Mr. Serjt. *Wrangham's* opening address, Mr. T. Church was called by the promoters, and asked as to the present means of communication between Woolwich and London, whereupon counsel was informed by the Committee that, in accordance with the suggestions drawn up by the Chairmen² they did not wish that any witness should be called for the purpose of proving the existing, or the anticipated, traffic along the line.

Evidence of opinions of inhabitants. Mr. Harvey, a builder at Woolwich, being called on behalf of the promoters to speak to the opinion entertained by the inhabitants of that town upon the subject of the North Kent Railway, was cross-examined by Mr. *Austin*, Q. C., as to the grounds upon which such opinion had been formed, and the number of inhabitants he had conversed with on that subject, &c., when the Committee informed Mr. *Austin* that they did not think that the testimony of witnesses, with

¹ See the suggestions, *ante*, p. xiv.

² *Ante*, p. xiv

respect to their own private opinions of what were the feelings of others, except as ascertained by public meetings, was entitled to much weight. 1846.

Mr. *Austin*, upon this intimation, stated he would not pursue the cross-examination further.

Mr. *Vignoles*, one of the engineers of the North Kent Line, was here called and examined by Mr. Serjt. *Wrangham*.—During the witness's examination, Mr. Serjt. *Wrangham* stated that, subject to the approbation of the Committee, it was his intention not to examine him (Mr. *Vignoles*) with respect to the objections made by land-owners to the North Kent Line till the cases of the land-owners had been gone into. March 18.
Examina-
tion of engi-
neer, course
of.

Mr. *Austin* submitted that this would be an exceedingly inconvenient course, as it would lead to several re-examinations of Mr. *Vignoles*, and to great confusion.

The counsel were informed by the Committee that the course proposed by Mr. Serjt. *Wrangham* appeared to them to be the more convenient course.

The examination of Mr. *Vignoles* was then proceeded with, at the close of which, Mr. *Austin* proposed an interchange of estimates on each side.

Mr. *Vignoles* objected to this course unless ordered by the Committee to do so; ultimately, in pursuance of a suggestion to that effect from the Chairman, it was agreed that each party should deliver to the other the following morning an abstract of the estimates, taking the gross sum under each head of the expense. Estimates,
interchange
of.

Mr. *Petersdorf* proposed to cross-examine Mr. *Vignoles*, on behalf of the trustees of a road near Feversham, with which the proposed line of Railway threatened to interfere. Prayer of
petition.

Mr. *Talbot*, Q. C., objected to Mr. *Petersdorf* being heard on the petition of the trustees, on the ground that there was no prayer in the petition against the preamble of the bill.

1846. The Committee decided, after hearing the prayer, that Mr. *Petersdorf* could not be heard for the present.

Cross examination, course of. Mr. *Sturme*y, the Vestry Clerk of St. Saviour's, next proceeded to cross-examine the witness on behalf of that parish.

In the course of the cross-examination, Mr. *Sturme*y put a question as to the number of houses required to be removed to form a site for the London Terminus of the North Kent Line.

Mr. *Talbot*, Q. C., objected to the line of examination, Mr. *Sturme*y not appearing for the owners of the houses.

The Committee decided that Mr. *Sturme*y must confine himself to any question of impediment to be offered to the traffic.

Cases of opposing landowners, order of taking. An application was here made to the Committee to take the cases of the landowners opposing the North Kent Line after the case of the South Eastern had been gone into, on the ground that part of the case of most of the landowners was, that the North Kent Line was unnecessary, there being a better line that ought to be taken.

Sir *Walter Riddell*, on behalf of the North Kent, submitted that the Committee would follow the suggestions drawn up by the Chairmen, which pointed out a contrary course.¹

The Committee determined that they would adhere to the suggestions which were before them, and would take the cases of the landowners in the order prescribed thereby.

Cross-examination of landowners to be confined to the points arising on their own cases. Mr. *Tite*, the architect, who had estimated the costs of the land required for the North Kent Railway and Stations, having been called by the promoters, was being cross-examined by Mr. *Schoyn* on behalf of Mr. Stephen, an opposing landowner, as to the width of a particular portion of the line not on Mr. Stephen's land.

¹ See *ante*, p. xiv.

Mr. *Talbot*, Q. C., objected to Mr. *Selwyn's* examining the witness generally as to the whole of the line. 1846.

Mr. *Selwyn* was heard in support of his right to pursue his cross-examination.

The Chairman stated that the Committee wished counsel appearing for landowners to confine themselves generally in their examination of witnesses, to the points arising on their own cases.

On the re-examination of Mr. *Vignoles*, Mr. Serjt. *Wrang-* Order of
ham put certain questions to him—which raised a point of hearing.
comparison between the North Kent and South Eastern Lines.—This was objected to by the counsel for the South Eastern, on the ground that it was opening a new examination. The Committee thereupon informed Mr. Serjt. *Wrangham* that they thought that the above questions had better be asked at a subsequent stage of the proceedings, as evidence in reply; upon which Mr. Serjt. *Wrangham* expressed himself content not to put the questions, upon the understanding that he was to be allowed to recall the witness at a subsequent stage of the proceedings.

Subsequently, the question as to the recalling Mr. *Vig-* March 24.
noles was again raised by Mr. *Austin*, Q. C., who contended that the general course of practice, before Committees, in cases of two competing lines, had been to hear, in the first instance, the case for the first line, and against the second on the part of the promoters of the first line; and then to hear the case against the first line and for the second on the part of the promoters of the second; after which, speaking generally, and without reference to what might be proper in any particular case, the general discussion closed, so far as the evidence was concerned.

The Committee were unanimously of opinion that they would adhere to the suggestions drawn up by the Chairmen, and permit the North Kent Line, when the time came, to produce the positive evidence of any

1846. witnesses they might please, as against the South Eastern Line.

March 26.
Inhabitants
of parish,
locus standi
of.

Mr. *Bacon* claimed to be heard in support of two petitions; the one from the wardens and inhabitants of the parish of Saint Saviour's, Southwark, and another from the inhabitants of the same parish, against the Bill for the North Kent Line.

Mr. *Goldsmid* objected to Mr. *Bacon's* being heard, on the ground that the petitioners had no property on the line, and if Committees allowed parties without any property upon the line to go into their case, the proceedings would be protracted to an interminable length. He relied upon the ordinary practice of Committees and upon the decision of this Committee on a prior day.¹

Mr. *Bacon* urged that he had a right to be heard; that in a similar case of last session the inhabitants of Portsmouth² presented a petition against a bill, and were heard. That this Committee was called upon to decide, amongst other things, whether the public interests required this railway. That the inhabitants of St. Saviour's, through which parish a very important part of the work was to pass, felt, for the reasons stated in the above petitions, that it was against the public interests that the railway should be made, at least in the way proposed. They complained that the works of the promoters would be at an elevation above the present level of the roads varying from twenty to twenty-six feet; that this in so dense a population would produce great inconvenience to the community inhabiting the houses; that many of the houses would be destroyed, and that those which remained would be changed in character and inhabited by persons less capable of contributing towards the public burdens, and that whilst the burdens would be increased, the means of meeting them would be diminished, &c. That a sum of

¹ See *ante*, p. 56.

² See Walford on Railways, app., p. cccxiii.

money was raised annually in the parish for the payment of the clergyman and for the interest of a debt incurred on account of the church, and that no provision was made by the promoters for the probable deficiency of the rates applicable to the above purposes; that there was already one convenient railway, with a terminus, viz., the Greenwich, which rendered the London terminus of the promoters unnecessary.

The petition of the inhabitants in particular stated that the petitioners' houses would be affected, their property interfered with, and themselves compelled to remove elsewhere, and that there would be a great deterioration, if not entire destruction, of the properties contiguous to either side of the railway.

The Committee decided that there was not a sufficient difference between this case and that decided by them the other ¹ day for allowing Mr. Bacon to be heard, at any rate, upon the preamble.

The case of Messrs. Halls, the owners of the powder mills at Feversham, who were petitioners against the North Kent Line, having been heard,

March 30.
Evidence—
Report of
Board of
Trade of
previous
year.

Sir *W. Riddell*, on behalf of the North Kent, proposed to put in a communication from the Board of Trade consenting to the line of last year passing within the neighbourhood of Messrs. Halls' works on certain conditions.

Mr. *Merewether* contended that this was inadmissible; it had been objected to the preceding year on the ground that it was an opinion given by the Board of Trade without hearing his clients on the subject.

Mr. Serjt. *Murphy* stated that the above report was founded on the report of General Pasley, who had been sent down expressly to examine the premises.

The Chairman asked if it was intended by the North Kent to adopt the precautions advised in the document.

¹ See *ante*, p. 56.

1846. would afford the greater amount of accommodation to the country.

Sir *Walter Riddell* objected to this line of examination, the Committee having already stopped witnesses in giving their private opinions with reference to the advantages of one line over the other.

The Chairman stated that the Committee had admitted some evidence of persons of influence on the part of Sir *Walter Riddell's* clients, who would be likely to give a dispassionate opinion as to the respective advantages of the two lines, and therefore they thought there was no objection to the proposed line of examination.

April 3.
Cross-examination as to scheme not before the Committee.

In the cross-examination of Mr. Bidder, one of the engineers of the South Eastern, Mr. Serjt. *Wrangham*, on the part of the North Kent Railway, proceeded to question the witness as to the length, &c. of the line for which the South Eastern Company had a bill in Parliament, terminating at Hungerford Bridge.

Mr. *Merewether* submitted that this portion of the line, as far as the case of the South Eastern Railway was concerned, had not been before the Committee.

Mr. Serjt. *Wrangham* stated that he proposed to ascertain how the witness had estimated a Metropolitan line for himself, and at what rate he estimated it in reference to the present case.

Mr. Serjt. *Wrangham* thereupon pursuing the cross-examination further, as to the line in question—

Mr. *Merewether* objected to this being done, unless the whole case of the line which Mr. Serjt. *Wrangham* was seeking to compare with the present line was gone into.

Mr. Serjt. *Wrangham* was heard in support of the line of cross-examination.

The Committee decided that they were of opinion that Mr. Serjt. *Wrangham* might pursue the examination, limiting himself to general questions—the Committee reserving

to themselves the right of checking him should he proceed too far. 1846.

The witness was then cross-examined by Mr. *Dawson*, on behalf of an opposing landowner (Mr. Evelyn). Landowner not to go into general merits of bill.

In the course of this cross-examination, Mr. *Dawson* having asked the witness whether he could tell him (Mr. *Dawson*) the details of their permanent way for one mile, to which he (Mr. Bidder) replied that he would send it to Mr. Vignoles, the engineer of the North Kent, if it were wished. Mr. *Dawson* was informed by the Committee that this appeared to be an examination which belonged to the North Kent case against the South Eastern Line, and not to relate to the particular property for the proprietor of which he appeared.

Mr. Dewhurst, a member of the committee of the Medway Navigation Company, was called, and examined by Mr. *Bigg*, on behalf of that Company, with a view to show that the South Eastern Company had not dealt fairly by the Medway Navigation Company, in respect of the conveyance of their coal (the latter company being extensive dealers in that article). April 30. The Committee will not enter into matters pending before a court of law.

Mr. *Merewether* stated that he believed this matter was at the present moment the subject-matter of an application to the Court of Queen's Bench for a mandamus.

The Committee stated they would not enter into any question relating to a matter at present before a court of law.

The cases of the landowners opposing the South Eastern being concluded, the North Kent proceeded with their rebutting evidence. May 1. Rebutting evidence.

Mr. Vignoles being called for this purpose, was asked by Mr. *Talbot*, Q. C., as to the practicability of forming a junction with the Dover Packet Station from his (Mr. Vignoles') line, which it had been alleged by Mr. Stephenson, who had been called as a witness on the part of the promoters of the South Eastern, there was no means of doing.

1846. Mr. *Mereweather* submitted that this course of evidence was not according to the regular practice, as Mr. Vignoles was giving evidence not rebutting their case, but proving his own.

Mr. *Talbot*, Q. C., stated that, in consequence of Mr. Stephenson having stated there was no other line capable of being made to the Packet Station, he was examining Mr. Vignoles to prove that there was.

The Committee stated that, such an observation having been made, they thought Mr. Vignoles could be examined as to it.

May 4.
Omission
from the
estimates.

Mr. *Austin*, Q. C., was heard this day on behalf of the South Eastern Company. He commented upon the portion of their Chilham line from Gravesend to Rochester, and pointed out the advantages of adopting the existing works of the Gravesend and Rochester Canal and Railway, and accounted for the costs of the arrangement between the Canal and the South Eastern Company not having been brought into the estimates of the line (as in the course of the evidence had appeared to be the case), in that the arrangement was one already concluded, and which, whether the Committee sanctioned the bill before them or not, must still stand: the costs had already entered into the South Eastern Company's disbursements; it would, therefore, have been improper to have inserted the costs of the Canal as part of the costs of the Railway for the purposes of the bill. The Canal Company, under the powers given them for that purpose by Parliament, had proceeded to lay down further lines of railway, these the South Eastern might consider as an existing work; and Mr. Stephenson was employing that existing work according to his plans, for the purpose of a general communication throughout the country.

Mr. Serjt. *Wrangham*, in the course of his reply on behalf of the North Kent, contended that the transaction

touching the purchase of the canal must be fatal to the success of the South Eastern Bill, No. 2; it was admitted on all sides that it formed no part of the estimate; that the counsel for the Bill had urged that this was no subject for estimate, the price having been paid, and the South Eastern Railway Company, taking the canal under the powers of a prior act, which enabled the Thames and Medway Company to lay a Railway along the bank of their canal; but the South Eastern Company, he submitted, could have no authority to pay for these works unless it were under their present Bill; though the Canal Company might have the power under their act of converting their canal into a railway, there was no power given to the South Eastern Company to purchase or raise the money for paying for the canal so converted. In the South Eastern Bill, No. 2, a clause had been inserted empowering the one Company to purchase, and the other to sell, the railway and canal in question, and sanctioning any agreement already entered into for that purpose; the purchase was to be made under the authority of that bill, or, if made already, could only become lawful and binding by its passing. The case, therefore, of the canal and railway, stood exactly on the footing of the construction of any other portion of the South Eastern Company's works, or the purchase of land for any other part of their line.—The Standing Orders Committee, he submitted, had they been cognizant of the real state of things (which they could not have been because they did not go into the subject matter of the estimate) could have had no choice but to throw out the Bill; but this Committee being cognizant of it, ought now to deal with the Bill as the Standing Orders Committee would have done, had they been so informed. He cited the case of the Richmond and Staines Railway Company, where the Company sought to go through¹ Richmond Park and across

1846.

¹ See this case, *post*.

1846.

the Thames on a bridge; the Commissioners of Woods and Forests, however, insisted upon their going through a cutting and tunnelling under the river, which involved an expense of 50,000*l.* over the estimate, three-fourths of which had been subscribed. The opponents to the Bill took the objection that the parliamentary contract did not cover three-fourths of the estimated costs of the works, and the Committee so decided, and held the objection fatal. The South Eastern Company, by their Bill, No. 2, sought powers to raise a certain sum, 1,800,000*l.*, for the purposes of such Bill; among those purposes was the purchasing and improving the existing canal and railway of the Rochester and Gravesend Company; this ought, therefore, to have been provided for out of the sum in question. Assuming that the South Eastern could run over the rails of the other Company without making the purchase, as had been urged by the other side, still it was a mere towing-path railway, and wholly inferior to the corresponding portion of the North Kent¹ Line.

Evidence—
admissi-
bility of.

Mr. *Austin*, Q. C., having been heard on behalf of the South Eastern Company, and Mr. Serjt. *Wrangham* in reply, on the part of the North Kent Company, Mr. *Cockburn*, Q. C., before the Committee proceeded further, proposed to hand in a letter which the South Eastern had received from the Admiralty on the subject of the passage of a line through Greenwich Park. This line had been laid down by the Company, and was the preferable one, for the public; but, owing to the objections of the Admiralty to it, it had not been made a part of the South Eastern Company's case before the Committee; though, as was stated by Mr. *Austin* in his address, the promoters had still hopes of eventually overcoming this opposition, and getting their line through the park.

Mr. Serjt. *Wrangham* objected to the letter being put in.

¹ See this same point considered further, *post*, pp. 69, *et seq.*

The case, he submitted, was closed on both sides; the North Kent had no means of knowing anything with respect to the letter, and at that stage of the proceedings Mr. Cockburn had no right to put it in. That part of the South Eastern Company's scheme was out of the question in the present case, no evidence having been given about it, and the statement of the engineer being that it was abandoned. No cross-examination could therefore have taken place, nor any rebutting evidence tendered concerning it.

The Committee, after deliberation, decided not to receive the document.

The Chairman this day announced that the Committee May 8. had determined to receive evidence as to the line of the South Eastern through Greenwich Park, and to hear whatever evidence the North Kent Company might wish to adduce in opposition to this portion of the South Eastern project, but that the majority of the Committee were favourable to the South Eastern Bill.

Mr. Stephenson was called, and was being examined by May 12. Evidence—
Mr. Austin, Q. C., as to the experiments that had been made Admiralty
to test the effect that the passing of the trains might be expected to have, on the astronomical instruments of the Board of
Greenwich Observatory, when the Chairman requested to know whether the promoters had obtained the consent of the Admiralty.

Mr. Austin put in the letter containing the assent. It required that the railway should be carried under the park by a tunnel, and that such clauses as the Admiralty might think proper, should be inserted in the Bill, reserving to that board the power of regulating the speed and weight of the trains, &c., and even of altogether stopping them in certain events should they think it necessary.

The consent of the Commissioners of Woods and Forests not having been obtained up to that time, though it was hoped for in the course of the day, the Committee adjourned

1846. in order to give the promoters the opportunity of arranging with the Board of Admiralty and the Commissioners of Woods and Forests.

May 14. The Committee having themselves communicated with the Admiralty, and learned the terms on which they gave their consent, determined not to hear any further evidence as to the possible damage to the observatory, as they should take it for granted, that the Admiralty would take the necessary care of it under the powers which they had reserved to themselves on giving their consent; evidence as to the damage that might result to landowners, &c., from the construction of this line through the park, and touching its fitness or unfitness, &c., this Committee would still require from the promoters, and it would be open to the opponents of the line to cross-examine as to all these points.

With regard to the consent of the Commissioners of the Woods and Forests, Mr. *Goldsmid* claimed a right, in case the consent were given on conditions which affected the engineering character of the line, to cross-examine Mr. *Stephenson*.

The Chairman stated that Mr. *Stephenson* would then be obliged to submit evidence to the Committee, and the other side would be allowed to cross-examine, but the Committee would not grant an independent right to cross-examine Mr. *Stephenson* if he did not tender any evidence at all.

Omission
from the
estimates.

Mr. *Goldsmid* stated that he had another application to make to the Committee, before they decided on the preamble, touching the omission from the estimates.

Mr. *Austin*, Q. C., objected to Mr. *Goldsmid* being heard upon this application; he contended that it was an application touching a certain part of the scheme, which involved the question of the merits of the Bill upon the preamble, and that any objection to the preamble of the Bill was now too late, the time for it having gone by; the evidence on the

case was closed, and Mr. Serjt. *Wrangham* had argued the case at full length; the duty of the Committee, then, was to consider the preamble; the other side could not be allowed to make a special application about this matter any more than with respect to any tunnel upon the line or the gradients of any particular part, &c. 1846.

The Committee decided to admit the application, and to allow Mr. *Goldsmid* to make any observations that he might wish.

Mr. *Goldsmid*, in support of the application.—It is in evidence before this Committee, that the estimate of expence of the line of railway proposed by the South Eastern Railway Company, from the Greenwich Railway to Chilham, upon the amount of which the subscription contract of three-fourths of the expence has been entered into, does not provide for the expence of making any railway through the parishes of Chalk, Shorne, Higham, Frindsbury, or any of them, or for the sum of 310,000*l.* agreed to be paid by the South Eastern Railway Company for the purchase of the Gravesend and Rochester Railway and Canal, which is proposed to form an integral part of the proposed line in or through those parishes, and between Gravesend and Strood, although the Bill before this Committee contains powers for making a railway in or through the above parishes, and for making the purchase of the said railway and canal; the amount, therefore, of the estimate and the subscription contract for the proposed railway is clearly insufficient. It has been suggested that this is not one of the purposes of the Act; in answer to that, the preamble of the Bill recites that the object aforesaid (that is, the object in giving a more direct communication) may be obtained by the formation of a railway from the London and Greenwich Railway to Chilham. This shows that the South Eastern Company contemplated the making of an entire railway from the Greenwich Rail-

1846. way to Chilham, and not two pieces of railway, one from the Greenwich Railway to Gravesend, and another from Rochester to Chilham. Then the eighth clause enacts "That it shall be lawful for the said company to make and maintain a railway, &c., to commence at or near a certain point on the London and Greenwich Railway," and then it goes on to enumerate the several parishes through which the railway is to pass, and amongst them are Milton next Gravesend, Danton, Shorne, Higham, Frindsbury, and Strood, all those being parishes that intervene between Gravesend and Strood, and through which the Gravesend and Rochester Canal passes, and which it would not have been necessary to mention in the Act, unless it was intended to include the Gravesend and Rochester Canal as forming one portion of the entire railway from the Greenwich Railway down to Chilham; then the Parliamentary estimate supposes 1,800,000*l.* is the sum wanted for making the railway from the Greenwich Railway to Chilham, treating it again as one entire railway, and not two pieces of railway; then the Book of Reference contains a whole list (consisting of several parishes and landowners included) all being the names of landowners in the parishes through which the Gravesend and Rochester Canal passes; now all this part of the Book of Reference is utterly unnecessary, unless it is intended to include the Gravesend and Rochester Canal as part of the integral line of railway. Then the twentieth clause expressly provides for power to purchase the Gravesend and Rochester Canal; and the estimate clause empowers the Company to raise the sum of 1,800,000*l.* for the purposes of the Act. Now one of the purposes of the Act, as defined by the other clauses, being the purchase of the Gravesend and Rochester Canal and making the railway through those parishes, the 1,800,000*l.* ought to include the sum necessary for all those purposes. Hence it follows, as a matter of course, that the estimate

is insufficient, and that the Committee must so report it. 1846.
The answers suggested are,—First, that the purchase was authorized by the Act of last Session relating to the Rochester Canal; but in fact it is no such thing; that Act enables the Company to widen their railway, but there is not a word in it to enable them to sell the railway, or a word to authorize the purchase by the South Eastern Company; that must be, if at all, by the South Eastern Company's present Act: and secondly, that there is a separate Bill brought in by the Gravesend and Rochester Canal Company, authorizing the purchase of the Gravesend and Rochester Canal. But there are obstacles to that; in the first place, a Bill cannot be passed, an essential part of which depends upon the passing of another; and if the other side depend upon the supposed Gravesend and Rochester Bill, the consequence would be that this Bill would fail altogether, unless that should pass. There is another conclusive answer, that Bill does not authorize the raising of money; it is not grounded upon any subscription contract at all; it therefore still leaves the difficulty arising from the insufficiency of the estimate. In order to get out of this difficulty, it is suggested that the South Eastern may use the railway without buying it; but that is not what is proposed by the Bill already referred to. By the 87th section of the Standing Orders, the Committee is called on to report to the House what is the amount of the estimates of the cost or other expences to be incurred up to the completion of the railway, and whether they appear to be supported by evidence, and fully adequate to the purpose. This Committee cannot report to any such effect, as it is inconsistent with the facts; they cannot report that the amount of the estimate is sufficient for the construction of the works.

Mr. *Austin*, *contra*.—I will consider this case, first upon the merits, and secondly as to the compliance with the

1846.

Standing Orders. In the first place, this is an attempt to open that which has been already closed. These same topics have been already pressed upon the Committee, and in the same language. There is no point of fact upon the merits of the case; and upon the merits of the case simply it is impossible the other side can be now permitted to argue in this stage of the Bill. Secondly, with reference to the question of the Standing Orders, the objection is that there is no estimate for the purchase of the Thames and Medway Canal and Railway; if so, it is a Standing Order objection, resting upon the ground that the 29th order has not been complied with. The present Committee consequently are incapable to entertain it, it being expressly provided by the 72nd Standing Order that no Committee upon the Bill shall have power to examine into the compliance or non-compliance with such Standing Orders as are directed to be proved before the Select Committee on Petitions for Private Bills, unless by special order of the House. That matter was considered in a committee in which Lord Palmerston was chairman. The question was, whether or not two railways could meet in a certain direction; unless they could so join one another the works could not be executed. It was attempted to prove there had been such a mistake in the levels of the plans deposited that one of the two railways would be considerably higher and the other lower; whereupon it was argued that the line could not be executed, and that the Committee must find that the preamble of the Bill was not proved. The Committee decided that the 72nd Standing Order prevented them from entertaining the question. If, then, the question here be whether there is an estimate or not, it is clearly a question for the Standing Orders Committee, and that being so, under the 72nd Standing Order (unless a special instruction be given to the Committee upon the Bill from the House, which there is not), the Committee

upon the Bill is disqualified from considering it. Supposing, however, this Committee to have jurisdiction to entertain the matter, and taking the question as already stated, this is a question relating to works that are already in existence, and the Thames and Medway Company have power to lay down any additional line of railway; we propose to take powers by a Bill already before Parliament for the purchase of the Thames and Medway Canal, and accordingly to strike out the 20th clause of the present Act, which has this for its object. The course proposed by the promoters in this respect is in accordance with the practice before committees, it being common for parties to take powers in Bills of this description to purchase another line of railway, or power to lease another line of railway; and then, if it is not necessary to ask to retain any such clause, to state at once that they do not propose to retain it.

Mr. *Talbot*, Q. C., in reply.—It is clear that when parties propose to construct a line of railway which shall cost 2,000,000*l.*, and they deposit an estimate and provide for the realization of that estimate, to the extent of 1,000,000*l.* only, that is a fatal objection to the Bill. Upon what ground is it that the attention of committees is so frequently engaged in the consideration of estimates, and that days are spent in the investigation of the simple point whether or not the engineer is mistaken in the amount he has taken for his railway? Why, because if he is, the bill cannot pass for want of the means to execute it. The case here is that of an absolute hiatus in the estimate, and that to the extent of 310,000*l.* for the purchase of a canal and railway, and 40,000*l.* for filling up the canal for the purpose of its conversion into a railway. This is not a Standing Orders objection. The only question upon the estimate before the Standing Orders Committee is whether the engineer's signature is genuine, and whether the estimate is so and so, and, that point esta-

1846.

blished, all questions of the sufficiency of the estimates, &c. are reserved for the committee upon the bill. The proposition to strike out the 20th clause of the bill does not obviate the difficulty; for independently of the question how, having struck out that clause, the promoters are to deal with their measure, (except it be by the introduction of a fresh bill) there still remains in the 8th clause of the bill the mention of matters connected with that portion of the railway which forms a substantial portion of the bill upon which this Committee are about to report to the House. It is by that section that power is given to make the railway, and without that section the promoters take no power in the bill. If then those matters so contained in the 8th section are not struck out of the bill, the expunging of the 20th clause does not relieve the Committee from the present question. The other side labour under this difficulty; if they retain in the 8th clause what relates to the above portion of their scheme, they retain what will cost them, either in purchasing or in labour, or in both, 350,000*l*. If they strike it out, they take a railway nominally from London to Dover, but in reality from London to Dover minus the gap in the middle, which is not filled up in any shape by a railway.

May 18.

The communication from the Woods and Forests having been put in, the engineering evidence relative thereto was this day gone into, at the close of which the Committee deliberated; and eventually decided that the North Kent preamble was not proved; that the preambles of the South Eastern Company's two bills, viz., from Canterbury to Dover, and again from Maidstone to Strood, were not proved; and that the Committee would amend the South Eastern Company's bill from London to Chilham, so far as to allow of the line being carried to Gravesend, and no further, omitting also the part from Lewisham to Dartford.

The reasons which induced the Committee to come to the above resolution may be collected from the following passage in their report :—

1846.

“ Mr. Protheroe further reported from the Select Committee, that they had examined the allegations contained in the preamble of the bill, and had amended the same by striking out so much as related to the part of the projected line between Gravesend and Chilham. The Committee in reporting so considerable an alteration in the object of the bill, think it right to put the House in possession of the reasons which induced them to adopt this course. The Committee, after a careful consideration of the comparative merits of the two projects submitted to them for supplying North Kent with railway communication were of opinion that the line proposed to be made and conducted by the South Eastern Railway was, under the circumstances, better adapted for the wants of the district, both as a continuous line from London to Dover, and as a communication between London and the line of seaports and the ports of the South of England. On proceeding to the consideration of the allegations of the South Eastern bill, with a view of reporting on them to the House, the Committee were met with the following difficulties in carrying out their views :—The bill, as submitted to the Committee, purported to be for the formation of an integral line between Greenwich and Chilham ; it appeared, however, in the progress of the inquiry, that the South Eastern Company proposed to effect the communication between those termini by the formation of a new railway from the terminus at Greenwich to a point near Gravesend, joining the Gravesend and Rochester Railway, using that railway from thence to Rochester, and forming a new railway from thence to Chilham, thus being in point of fact a project for the formation of two lines, one from Greenwich to Gravesend, and another from Rochester to Chilham.

1846. Under the provisions of the bill, as submitted to the Committee, it appeared that it was proposed to take powers to purchase the Gravesend and Rochester Railway intervening between these points. The parties, however, stated that they should apply to have these clauses struck out of the bill, as there was pending in Parliament, and referred to another Committee, a separate bill for this object. But it appeared, on examination, that the powers sought in both instances were merely permissive, and contained nothing to bind the South Eastern Company to purchase, or the Gravesend and Rochester to sell, nor was there any estimate of the cost of such purchase, or declaration of any existing fund from which it could be defrayed. The Committee, entertaining a decided opinion that in a district so extensive, and where such constant and important traffic was anticipated, a continuous line, under the management of one company, was of paramount importance, could not recommend to Parliament the adoption of a line in which there was an interval of several miles of railway, vested in and under the control of a separate and distinct company. Under these circumstances, the Committee might have reported the preamble as not proved, but to such conclusion they were most unwilling to come, as they were desirous of terminating their protracted investigation and the long contest of parties by some decision productive of benefit to the public. This result they thought they should attain by granting the first portion of the South Eastern Company's line to as far as Gravesend. The line passes through a level country, and affords a good communication between the metropolis, Woolwich, and Gravesend, through Greenwich. The demand for a railway and the greatness of the traffic, are undoubted facts, and this portion of the line appeared to the Committee to form the best entrance to North Kent; and if the South Eastern Company obtain possession of

the Gravesend and Rochester Canal, a continuous line will be opened from London to the banks of the Medway, opposite Rochester, from which point the South Eastern Company or any other may at a future time continue the line as projected, to Sheerness, and either directly or by Chilham to Canterbury." 1846.

Mr. Protheroe further reported from the Select Committee that they had found the allegations of the bill, as amended, to be true, and had gone through the bill, and made several amendments thereunto.

The South Eastern (Greenwich and Chilham) Bill was subsequently recommitted when the preamble and clauses were further amended, and agreed to as amended.

1846.

GROUP 8.

*North British Railway (North Berwick and other Branches)
Bill.*BENJAMIN HAWES, Esq., M.P., FOR LAMBETH,
CHAIRMAN.

Clause struck out, where no mention of object made in preamble—Additional traffic evidence required—Omission in preamble—*Locus standi* of inhabitants of town—Committee institute examination with reference to complaint of inhabitants of town, who had been held to have no *locus standi*—Clause for indemnification of Road-Trustees negatived—Hearing of bill postponed on account of bill for competing line not being read a second time—Competing line entitled to be heard, &c., without proof being given of compliance with Mr. Duncombe's resolutions.—Witness called to prove compliance with Mr. Duncombe's resolutions not permitted to be cross-examined—Counsel for competing line entitled to cross-examine, though no petition presented by such line—Witness may be asked question as to valuation of particular land, when necessary to test accuracy of estimate—Company which had obtained bill held not a competing line—*Locus standi* of Dock Commissioners—Committee refuse to review decision—Grounds of opposition of landowner.

Mr. Serjt. *Bellasis* opened the case for the promoters; it appeared that among the objects of the bill, was the empowering the company to make a branch to Dunse, the principal market-town of Berwickshire, and to increase their station-room in Edinburgh, and lastly the enabling them to purchase or to lease a proposed line from Edinburgh to Peebles.

Striking out
clauses.

A clause, it may be remarked, for the last-mentioned purpose, was inserted in the Company's bill, but no mention thereof was made in the preamble.

In the course of the proceedings the Committee called counsel's attention to the above clause, and asked whether it ought not to have been mentioned in the preamble.

Mr. *Talbot* assented to the clause being struck out of the bill. 1846,

Mr. *Wilson*, a landed proprietor at Berwick, was called on behalf of the promoters, and examined as to the advantage of the Dunse Branch, &c. Additional traffic, evidence required.

At the close of his evidence the Committee, referring to the suggestions according to which it was competent for them, if they thought fit, to require further evidence as to the traffic, stated that they wished to hear evidence on this point, of which, up to that time, they were entirely destitute. The promoters thereupon called Mr. *Marshall*, who had estimated the traffic upon the Dunse Branch.

The Committee called the attention of the counsel for the bill to an omission in the preamble, viz.,—in not reciting the intention of the promoters to apply for powers to increase the station at Edinburgh, which they, the Committee, were of opinion it should have done, and accordingly wished to know whether the counsel had any amendment to propose, so that the Committee might report it to the House. Omission in preamble.

Mr. *Talbot* thereupon proposed the insertion in the preamble of the following words, “And it is also expedient that the North British Railway should be empowered to take additional land for the purpose of the station at Edinburgh,” of which the Committee expressed their approval.

North British Railway (No. 2, Hawick Branch) Bill.

Among the petitions against the bill was one from John *Brookes* and others, a Committee of the inhabitants of the town of Kelso, appointed at a public meeting held for that purpose, alleging that the proposed railway, passing to the south of Kelso, at a distance from the town, would be April 2. Locus standi of inhabitants of Kelso.

1846. inimical to its trade, and the property of the inhabitants would be consequently deteriorated; that the branch to Kelso was inaccurately described in the bill, and the gradients and curves thereof dangerous to the public.

The clauses of the above bill were this day proceeded with.

Mr. *Patton*, on behalf of the inhabitants of Kelso, was heard to propose a restriction on the 7th clause, making it imperative on the promoters to stop the construction of their works at a distance of two miles of Kelso in order to the amendment of the line in a future year. He offered to prove that the line, as at present planned, would be productive of all the evils and inconveniences set forth in the petition, and that a line admitted of being constructed which would avoid those evils, and would be close to the town of Kelso to which the promoters of the bill professed to bring it.

Mr. Serjt. *Bellasis* objected to Mr. *Patton's* appearing for the Inhabitants of Kelso, and contended that according to the rules of the House he had no *locus standi*, inasmuch as the property of those he represented would not be at all interfered with.

Mr. *Patton* was heard in answer to the objection.

Mr. Serjt. *Bellasis* in reply.

The Committee expressed a wish to be informed if there was any precedent for Mr. *Patton's* appearing under such circumstances.

Mr. *Patton* said that he understood there was such a precedent in the case of the Cornwall Railway Company; he submitted that if he could show the inhabitants had a substantial interest, and that this was a *bonâ fide* opposition, he ought to be heard.

The Committee directed the petition to be read.

The Committee eventually decided that Mr. *Patton* had no *locus standi*.

The Committee then expressed their wish to hear Mr.

Miller (the engineer of the line), to explain the way in which the line would terminate near the town of Kelso. 1846.

Mr. Miller was accordingly called and examined by the Committee. The examination having lasted some time, the Committee said that though they had refused to permit Mr. *Patton* to appear on the petition of the inhabitants of Kelso, yet it was their duty to ascertain from the engineer the nature of the accommodation that was intended to be afforded to the town; they would therefore question the engineer further with reference to the station there.

The clauses being further proceeded with, Mr. *Patton*, on behalf of the trustees of a turnpike trust, was heard to propose a clause for indemnifying the trustees against the loss of tolls, which, as they contended, was likely to result from the construction of the railway. The clause was negatived by the Committee.

Engineer,
examination
of, by Com-
mittee.

Clause for
protection of
road trustees
negatived.

Edinburgh and Leith Atmospheric Railway Bill.

Mr. *Aytoun*, for the promoters, requested a postponement till a rival line, the Edinburgh, Leith, and Granton (Extension and Branches), the bill for which was to be read a second time that night, was ready to be proceeded with at the same time.

April 29.
Postpone-
ment of
hearing, on
ground of
bill for com-
peting line
not being
read a
second time.

Eventually the hearing of the promoters' case was postponed till the ensuing Monday (May 4); the Committee in the interim obtaining the leave of the House to take up the other bill at the same time, though the notice required by the Standing Orders had not expired.

Mr. *Milne*, solicitor, was called by Mr. *Whateley*, Q.C., who appeared for various opponents of the bill, namely, Heriot's Hospital, the Edinburgh, Leith, and Granton Railway (an existing line established by Act of Parliament),

May 6.
Competing
line entitled
to be heard
without
proving com-
pliance with
Duncombe's
resolutions.

1846. and a competing scheme (the Edinburgh, Leith, and Granton Railway Extension and Branches).

Mr. *Whateley* having stated that the witness was called to speak to the general question, involving the case both of Heriot's Hospital and the Edinburgh, Leith, and Granton Railway Company,

Mr. *Hill*, Q.C., as counsel for the Edinburgh and Leith Atmospheric Bill, objected to Mr. *Whateley's* going into any general case without its being first shown that the promoters of the rival scheme had complied with Mr. Duncombe's resolutions.

Mr. *Aytoun*, on the same side, further objected to the opponents first trying the case on the old line, and then bringing forward their evidence again and trying it over a second time.

The Committee stated that it must be their duty to hear the case of the Edinburgh, Leith, and Granton Railway, with its branches, before they could decide; and whether it was heard one time or another, could make very little difference.

With regard to the prior objection, the Committee decided that the Edinburgh, Leith, and Granton (Extension and Branches) Bill was entitled to be heard, and to examine witnesses in opposition to the Edinburgh and Leith Atmospheric Railway Bill, without proving a previous compliance with Mr. Duncombe's resolutions.

The Edinburgh, Leith, and Granton Railway (Extension and Branches) Bill was then called on.

The returns under Mr. Duncombe's resolutions were put in and proved on behalf of the promoters by Mr. *Ingold*.

Cross-examination of witness called to prove compliance with Duncombe's resolutions, not permitted.

Mr. Serjt. *Bellasis*, on behalf of the Edinburgh and Leith Atmospheric Line, applied for leave to cross-examine the witness; but the Committee decided that he could not be permitted to do so, though this resolution must of course be understood as subject to any instructions they might receive from the House.

Mr. Grainger, the engineer of the line, was then called and examined as to its merits. 1846.

Mr. Serjt. *Bellasis*, on behalf of the Edinburgh and Leith Atmospheric Line, applied for leave to cross-examine the witness. Counsel for competing line entitled to cross-examine, though no petition presented by latter.

Mr. *Whateley* objected, inasmuch as the promoters of the latter scheme had presented no petition.

The Committee decided on allowing the cross-examination.

Caledonian Railway (Mid-Lothian Branches) Bill.

Mr. Smith, an architect and land-valuer, was called by the promoters to speak to the estimates of the property required for the above branches. On cross-examination he was asked by Mr *Whateley* whether he had estimated a Mr. Ramsay's land; to which he (Mr. Smith) replied, that he had, the land from Dalry to Granton, and that part he had taken as villa land. May 12. Witness, how far may be asked as to valuation of land of particular person.

Sir *Thomas Phillips*, on the part of the promoters, objected to the course of examination, inasmuch as it infringed a principle which committees had always held sacred, viz., that a valuer should not be asked how he had valued the land of a particular person. The Committee decided that to test the sufficiency of the valuation they must ascertain whether the witness had valued the land as villa land, or not; that the mode of valuing was one thing and the amount another. They accordingly overruled the objection.

Mr. *Whateley* thereupon proceeded to ask the witness whether he had valued Mr. Ramsay's land as *feuing* land, or not? The reply being, that he (Mr. Smith) had valued a portion as villa land, Mr. *Whateley* called on him to state what portion he had so valued.

1846. — Sir *Thomas Phillips* objected to the question ; but the objection was overruled by the Committee.

Mr. *Hawkins*, the resident engineer at Granton Pier, being called on behalf of the promoters, and being about to be cross-examined by Mr. *Sandford*, on behalf of the Edinburgh, Leith, and Granton Company, who were petitioners against the Bill,

Company
which had
obtained bill,
not a com-
peting line.

Sir *Thomas Phillips* objected to a Company which had already obtained its bill, being heard as a competing line to oppose the present bill.

The Committee decided that the Edinburgh, Leith, and Granton Railway Company was not a competing line, and therefore they allowed the objection.

Sir *Thomas Phillips* said that he understood the petition of a Mr. *Muir* had been referred by the House to the Committee ; he objected to its being received.

The Committee stated that it would be put in ; and the petitioner would make his appearance by-and-by.

Locus
standi of
Dock Com-
missioners.

Mr. *Patton* said that Sir *Thomas Phillips* was in order ; and he would state the appearance, and the grounds upon which that appearance was made. The petition was presented by Mr. *Muir* on behalf of the Commissioners of the Harbour and Docks of Leith ; and Mr. *Muir* appeared as one of the commissioners representing that body, against the Caledonian line to Granton Pier, and he claimed to be heard on the part of the Commissioners of the Harbour and Docks at Leith.

Mr. *Patton* proceeded to state the rights of the Commissioners to be heard in opposition to the bill, when he was interrupted by Sir *Thomas Phillips*, who objected that he was going into the merits.

Mr. *Patton* said he could not state his case without doing so.

Sir *Thomas Phillips* submitted that the commissioners had no right at all to be heard before the Committee.

The Committee stated, that on the question whether the commissioners had a right to be heard, they should be disposed to give them some latitude. If the counsel went into the merits, that would not affect their view of the subject.

1846.

Mr. *Patton* was heard on that point by the Committee. He argued that the object of the bill being to divert the trade from Leith, in which the commissioners had the greatest possible interest, he was entitled to be heard.—*Riddell* on Railway Practice, 190. That interruption to a trade had always given the trader likely to be prejudiced a right to be heard; and though this might be said to be a direct injury, still that the result would be the same to the commissioners.—*Riddell*, 192. (The Chairman remarked that in these cases the injury was not only direct, but personal.) This he admitted; but though it was not so with the commissioners, yet that it was inevitable; that a deterioration in the Leith Dock works would undoubtedly be the result, and that deterioration was a ground for a *locus standi*.—*Frere*, 36. He also cited *Riddell*, pp. 217-18.

The Committee determined that the Dock Commissioners could not be heard in opposition to the Caledonian and Mid-Lothian line to Granton.

Mr. *Talbot* applied to the Committee to reconsider the decision to which they had come on a preceding day against the Edinburgh, Leith, and Granton Railway Company being heard to oppose the present bill.

Committee
refuse to
review
decision.

The Committee stopped Sir *Thomas Phillips*, *contra*, and stated that they did not feel disposed to alter or modify their decision.

Mr. *Granger*, the engineer of the Edinburgh and Glasgow line, and likewise of the Edinburgh, Leith, and Granton, was called on the part of the opponents of the present line, and examined by Mr. *Sandford* as to the capacity of

Grounds of
opposition of
landowners.

1846. the Edinburgh, Leith, and Granton, in conjunction with the Edinburgh and Glasgow (and supposing a junction made between them, to effect which the execution of a line of about three-quarters of a mile only was necessary) to accommodate a mineral traffic to the sea.

The Committee observed that the evidence was hardly regular ; that they were really getting into evidence upon the Edinburgh, Leith, and Granton line.

Mr. *Sandford* said he appeared for the landowners, who had a right to defend themselves against the Railway.

The Committee observed that the previous witness proved, and it was admitted, that that line could take down any quantity of coal whatever ; at the station they might take three or four hundred thousand tons.

Mr. *Sandford* stated that the object of his examination of Mr. Grainger was to show there was no necessity for this new line with a view to an equality of traffic.

The Committee inquired if his objection was generally to show that a new line was unnecessary, because that no traffic would exist for it ; or that the traffic would exist, but that their line was capable of conveying it.

Mr. *Sandford* said that was the case.

The Committee stated that he should also put in some evidence to show that the existing line would convey it more conveniently ; because if he admitted the existence of the traffic, and the case of the promoters was that they ought to have a line to convey it conveniently, he ought to show that the existing line would convey it more conveniently.

GROUP 13.

SIR WILLIAM CLAY, BART., M.P. FOR TOWER
HAMLETS, CHAIRMAN.

Caledonian Railway Extension.
Glasgow, Dumfries, and Carlisle.
North British (Carlisle Extension).
Caledonian (Dumfries Branch).
Ayrshire and Galloway.
Glasgow and Belfast Union.
Scottish Southern.
North British (Gretna Branch).
Caledonian (Langholm Branch).

Order of hearing—*Locus standi* of landowner not lost by abandonment, before Committee, of that portion of the line which affects his property.

Scottish Southern Railway Bill.

THIS bill, being unopposed, was referred by the Committee to the Chairman of Ways and Means, together with the members ordered to prepare and bring in the same.

The Committee resolved to take, in the first instance, ^{Order of hearing.} the cases of the Glasgow, Dumfries, and Carlisle Railway and the Caledonian (Railway Dumfries Branch) as competing *inter se*; in the next place, to take the cases of the North British (Carlisle Extension), the North British (Gretna Branch), and the Caledonian (Langholm Branch); then to take the Ayrshire and Galloway Railway, and the Glasgow and Belfast Union Railway.

1846.

May 15.
Order of
hearing.

Caledonian Railway (Dumfries Branch).

At the conclusion of the evidence in support of the Caledonian Railway (Dumfries Branch), Mr. *Cockburn*, Q.C., counsel for that line, proposed that the decision of the Committee thereupon, and on the case of the Glasgow, Dumfries, and Carlisle Railway, should be postponed until the cases of the Caledonian Railway Extension and of the North British (Carlisle Extension) Bills were heard.

Mr. *Andrews*, Q.C., on the part of the promoters of the Glasgow, Dumfries, and Carlisle Railway Bill, objected to this proposition, and contended that all the evidence which the promoters of the Caledonian Extension Railway desired to give in opposition to the Glasgow, Dumfries, and Carlisle Railway Bill, had been given ; and that the North British (Carlisle Extension) Railway was in no way competing with the Glasgow, Dumfries, and Carlisle Railway, and therefore applied for the present decision of the Committee.

Thereupon Mr. *Talbot*, Q.C., on the part of the Duke of Buccleuch, and others petitioning against the Caledonian Railway (Dumfries Branch), and Mr. Serjeant *Bellasis* for the North British Railway (Carlisle Extension) also opposed the application.

Mr. *Cockburn*, in reply.

The Committee resolved not to adopt the course proposed by Mr. *Cockburn*.

Caledonian Railway Extension.

*Locus
standi* of
opposing
landowner
not taken
away by
abandon-
ment, before

This was a scheme for the formation of a line of railway from Ayr through Muirkirk to Ravenstruther, a point on the Caledonian Railway, then in course of formation, in order to effect a direct and unbroken communication

Committee, of portion of line affecting his property.

between Ayr and Edinburgh. The bill was opposed by certain landowners, as also by the Glasgow, Paisley, Kilmar-nock, and Ayr Railway Company, in respect of the proposed crossing of the Cumnock Extension of their line at a point between Ayr and Muirkirk. The properties of the opposing landowners, with one exception, were likewise situated between the same places, that is, east of Muirkirk. 1846.

After some evidence had been given by the promoters, it appeared that the opposing Company were themselves about to complete, by private agreement, a line of railway from Ayr to Muirkirk by a route different from that to be followed by the Caledonian Extension Railway.

Mr. *Cockburn*, Q.C., with whom were Mr. Serjeant *Wrangham*, Sir *Walter Riddell*, Mr. *Hope*, Mr. *Pickering*, and Mr. *Boyle*, then stated that the promoters did not feel themselves justified in expecting that the Committee would sanction a second distinct line of railway between the same places; and that, relying on the intentions of the Glasgow and Ayr Company *bonâ fide* to execute their branch, with which the Caledonian Extension Railway would be connected, he should offer no further evidence on the advantages of this part of the scheme.

Sir *Walter Riddell* then submitted that, with the exception of the landowner above referred to, whose property would still be affected by the line before the Committee, the opponents of the bill could no longer be heard against it.

Mr. *Deedes*, who appeared with Mr. *Austin* and Mr. *Denison* for all the opposing landowners, contended that the abandonment of the portion of the line which immediately affected their properties, did not deprive them of that *locus standi* against the scheme, which they had at the time of presenting their petition; they had then a right to oppose the whole bill, on public as well as on private grounds, and they still retained that right in regard to the portion of the line which was to be proceeded with.

1846.

Sir *Walter Riddell*, *contra*, submitted that the land-owners between Muir Kirk and Ayr had no *locus standi*. That the Company did not propose to interfere with any of their property, and therefore that there was no injury proposed to be done to them, and that they could have no ground for objecting to the line. That the law of Parliament did not allow parties to appear to oppose a bill who were not affected by it.

The Chairman inquired if there was any case on this point.

Sir *Walter Riddell* submitted that this was the universal practice, and that there was no authority to the contrary.

Mr. *Deedes* called Mr. Bannatyne, Parliamentary Agent, who stated that the point had been decided in the Wishaw and Coltness Railway (Greenhill Branch) Bill,¹ which was opposed by Sir Thomas Cochrane; and on the Company, before they got to issue, abandoning that portion of the line which passed through his property, it was objected that Sir Thomas Cochrane had no *locus standi*, but the Committee decided, after consulting the Speaker, that Sir Thomas Cochrane had still a right to oppose the preamble.

Mr. *Andrews*, Q.C., on behalf of the Ayrshire Company, submitted that he could not be shut out from his opposition by the promoters abandoning a portion of their line; that he was prepared with his evidence, and ready to show that the line ought not to receive the sanction of Parliament; and that the promoters could not, by saying, "We will not for the present go on with that portion of our line which affects you, but first of all dispose of the other portion," deprive his clients of their *locus standi*; that such a practice would be most unjust, as other parties who would be affected by the proposed line might have opposed the line if they had not relied on the right of those affected by the Ayr and Muirkirk line to be heard against the whole line.

¹ See *post*, p. 97.

Mr. *Cockburn*, in reply.

1846.

Mr. *Pickering* referred to the case of the Scottish Central Railway (Strathearn Deviation), Sir J. C. Hobhouse, Chairman, in which it was decided that on a Company abandoning that portion of a line which affected a landowner, he was deprived of his *locus standi* against the bill.

The Committee came to the following resolution :—

That the Committee are of opinion that that part of the railway which it is proposed to abandon is part of an integral line, and that those parties who, at the time of presenting their petition, had a *locus standi*, were not deprived of that right by the withdrawal of that portion which immediately affected them ; that the Committee had come to this conclusion, not only on the ground of substantial justice, but also on a former decision. The Chairman however stated, that if it were desired by the promoters, he would consult the Speaker. This being assented to by the counsel for the promoters, the Chairman consulted the Speaker, who expressed his entire concurrence with the decision of the Committee.

On a subsequent day Mr. *Austin* addressed the Committee after the case for the promoters was concluded, on behalf of the opposing landowners ; and after noticing the positive injury which would be done to the property of one of his clients to the eastward of Muirkirk, he proceeded to detail the great amount of injury that might be occasioned to the estates and residences of the rest of them, by the construction of the line between Ayr and Muirkirk, which had been for the present abandoned. He stated that those parties were under apprehensions lest the line now before the Committee should be continued to their detriment at some future period.

On the following day Mr. *Denison* proposed to call witnesses in support of Mr. *Austin's* statement.

Sir *Walter Riddell* suggested, that inasmuch as the

1846. line must be altered to effect a junction with the new Branch between Ayr and Muirkirk, and the petitioner's property, east of Muirkirk, was near the junction, the consideration of injury to it ought to be postponed till the decision of the Committee on the preamble of the bill was known. In case the preamble should be found proved, the promoters were willing to leave the mode of connection with the Glasgow and Ayr Company's Branch in the hands of the Committee, and that matter could be so arranged as to affect the property of the opposing landowners less injuriously than in the original plans. This suggestion was agreed to.

Sir *Walter Riddell* then objected that the proposed evidence of injury to landowners East of Muirkirk, had no application to the case now made by the promoters.

The Chairman said it appeared to the Committee that it was not worth their while to receive the rest of the evidence now offered. The amount of private injury which might be done to the landowners between Ayr and Muirkirk was no longer a question before the Committee, and could only be considered by the legislature in another Session, and upon another application. By their decision sustaining the *locus standi* of the landowners, the Committee intended to reserve to them only the power of establishing the public grounds of objection stated in their petition.

Evidence of a general nature against the bill was then adduced on behalf of the Glasgow, Paisley, Kilmarnock, and Ayr Railway.

And the Committee, after the addresses of counsel, found the preamble of the bill not proved.

1846.

GROUP 2.

*Cornwall Railway Bill.**West Cornwall Railway Bill.**South Devon Railway, No. 2 (Amendment and Branches) Bill.**Taw Vale (Extension) Railway Bill.*

VISCOUNT MORPETH, M.P. FOR WEST RIDING,
YORKSHIRE, CHAIRMAN.

Promoters of Bill thrown out on Standing Orders have no *locus standi*—Opposing landowners may cross-examine, to show the superior general merits of any other scheme; but they may not institute a comparison of particulars, such as engineering, &c.—Cross-examination by opposing landowner, where the line before the Committee is intended to form a continuation of an existing line, opponents of Bill may inquire as to general character of such line—Promoters of Bill thrown out on Standing Orders, *locus standi*.—Mortgagors out of possession have a *locus standi*.

Cornwall Railway Bill.

Mr. Talbot, Q. C., opened the case on the part of the promoters of the bill.

Sir W. Molesworth was then examined by Mr. Serjt. Kinglake, on behalf of the promoters, and cross-examined by Mr. Rowe, who appeared for various petitioners against the bill, and, amongst others, for the promoters and members of the Committee of Management of the proposed Cornwall and Devon Central Railway, the bill for which had been thrown out on Standing Orders.

May 21.
Locus standi of promoters of bill thrown out on Standing Orders. Landowners' cross-examination.

On the cross-examination of the above witness, Mr. Rowe attempted to go into the case of the last-mentioned scheme, when Mr. Serjt. Kinglake, for the promoters, objected,—first, that the promoters and Committee of Management of the Central Cornwall and Devon scheme had no *locus standi*, as petitioners, before the Committee; secondly, that the petitioning landowners were

1846. confined to objections to the merits of this bill, and could not be permitted to set up the comparative merits of another scheme not before the Committee.

Mr. Cockburn, Q.C., *contra*, argued that the promoters of the Central Cornwall and Devon Line ought to be admitted, as such, to show the superiority of a scheme which (for anything that appeared) might have been rejected by the Standing Orders Committee on account of some merely accidental case of omission; secondly, that even if this were not the case, landowners, at all events, were entitled, as part of their case, to show that the public might obtain another and a better line without passing over their land, and that the rejected scheme afforded such a choice.

Mr. Serjt. Kinglake replied.

The Committee decided, 1st, that counsel could not be admitted to cross-examine witnesses for the line on behalf of the promoters of the Central Cornwall and Devon scheme: 2d, that counsel for landowners might cross-examine with a view to show the superior general merits of that or any other scheme, accommodating the same districts, to those of the line before the Committee; but might not institute a comparison of particulars, such as engineering, &c., between such scheme and the line in question.

June 12.
Examina-
tion of
opposing
landowners.

Mr. Lock the engineer was called on the part of the opponents of the bill. On his examination by Mr. Cockburn, Q.C., he was asked the following question: "Have you surveyed the country, so as to be able to say that a better line than the present may be found?"

Mr. Serjt. Kinglake objected to the question, and contended that it was not admissible in conformity with the previous resolution of the Committee.

Mr. Cockburn, *contra*, contended that as he appeared for landowners on the proposed line, he was entitled to show that a line in another direction was preferable.

Mr. Serjt. Kinglake, in reply.

The Committee resolved :

1846.

That questions might be put as to the nature and lie of the country, but not so as to refer to the existence of any other line.

Mr. *Austin*, Q.C., in opening for the Cornwall had mentioned the circumstance of its joining the South Devon so as to form a communication with London.

On the examination of the last witness, on the part of the opponents of the bill, Mr. *Cockburn*, Q.C., inquired of him as to the gradients &c. on the South Devon line.

Examination as to general character of existing line.

Mr. *Talbot* objected to any inquiry as to the merits of the South Devon Railway, which could not then be gone into.

Mr. *Cockburn* contended that he had a right to put the question, as bearing on the question of the main through communication from Falmouth to London by means of the proposed junction of the Cornwall and South Devon lines.

Mr. *Talbot*, in reply.

The Committee resolved :

That the South Devon line not being before them, the parties have no strict right to examine concerning it ; but as the character of the South Devon line formed a material ingredient in the question of the best communication for the county of Cornwall with the rest of the kingdom, the Committee did not object to one witness being questioned on each side with reference to the general character of the South Devon line.

West Cornwall Railway Bill.

Among the petitioners against the bill, were the promoters, &c. of the proposed Cornwall and Devon Central Railway.

June 16.
Promoters of bill thrown out on Standing Orders, *locus standi*.

The Committee decided that they had no *locus standi*, as they had no bill before Parliament.

1846.

*South Devon Railway, No. 2 (Amendment and Branches)
Bill.*

*June 22.
Mortgagors
out of pos-
session, lo-
cus standi.*

Mr. Serjt. *Kinglake* opened the case on behalf of the promoters. (A question here arose as to the *locus standi* of Mr. *Rowe*, who appeared for Mr. Drake and other petitioners against the bill.) Mr. Serjt. *Kinglake* contended that Mr. *Rowe* had no *locus standi* for the petitioners, inasmuch as they were mortgagors out of possession, the mortgagees in possession being favourable to the bill.

Mr. *Rowe* contended that he had a *locus standi*, particularly as the parties for whom he appeared had been served with notice as owners of the property in question.

The Committee resolved that the petitioners had a right to appear before the Committee.

GROUP 11.

Wishaw and Coltness (Greenhill Branch) Bill.

J. W. HENLEY, Esq., M.P. FOR OXFORDSHIRE,
CHAIRMAN.

The *locus standi* of an opposing landowner is not taken away by the abandonment of that portion of the scheme which affects his property.

Mr. *M'Neill* stated the case, on the part of the pro- May 1.
moters, and from his opening it appeared that among the petitioners against the bill was Sir T. Cochrane, who complained that the line, as laid down between the two proposed termini, would run through two miles of his property, and thereby greatly deteriorate it; the promoters, however, he (Mr. *M'Neill*) stated, were prepared to get rid of that opposition by stopping their line short at the boundary of the petitioner's property, so as not to require even a single foot of it.

Sir H. Stewart having been called and examined on behalf of the promoters,

Mr. Serjt. *Bellasis*, who appeared for Sir T. Cochrane, proposed to cross-examine the witness.

Mr. *M'Neill* objected to his appearance, as the Company did not now propose to touch any part of the petitioner's property.

Mr. Serjt. *Bellasis* argued that his client had never, till that moment, been informed that the line was to be cut short as proposed, and that the proposal to do so now, ought not to remove him from his opposition. It was plain, from the preamble of the bill, that the object was to con-

1846. tinue the line to Greenhill ; if the Committee now granted the line as proposed, as far as the boundary of Sir T. Cochrane's estate, it would, in fact, be determining the question as to the best route to arrive at Greenhill ; and if the line should thereafter be sought to be continued to that point, it must cross Sir T. Cochrane's estate ; and the existence of the line up to his boundary would be a reason for continuing it in the same direction. He therefore claimed to be heard, in order to show that another route altogether might with more advantage be taken. The preamble of the bill, moreover, alleged that a line all the way to Greenhill would be of public advantage : this allegation, which involved the crossing of Sir T. Cochrane's estate, he disputed ; and although the promoters might truncate their line as they now proposed, they could not alter the preamble without leave of the Committee, which he trusted would not be granted.

The Chairman, after consulting the Speaker, stated that the promoters might proceed with their bill, and that Mr. Serjt. *Bellasis* should be heard against the preamble generally.

Mr. Serjt. *Bellasis*, at the close of the promoter's case, was heard against the bill, notwithstanding the alteration excluding from its operation the property of the petitioner.

1846.

GROUP 60.

Chichester, Portsmouth, and Fareham Railway Bill.

JOHN PARKER, Esq., M.P. FOR SHEFFIELD, CHAIRMAN.

Two Railway Companies having agreed that an extension line should be vested in both jointly, and that a bill should be applied for, vesting it in such companies ; one of them having declined to proceed with the bill, on the ground that the other had not complied with certain conditions, the Committee declined proceeding with the bill.

Mr. *Austin*, Q. C., opened the case on behalf of the pro- June 17.
motors. He stated that a bill had been obtained some time back for the formation of a line from Brighton to Chichester, which was vested in the Brighton Railway Company ; that in the last Session a bill was obtained for the extension of that line to Portsmouth and Fareham from Chichester ; that it was then thought advisable that the property in this extension line should be vested in the Brighton and South Western Railway Companies, and an agreement was accordingly entered into between the two companies to apply to Parliament for leave to bring in a bill for the purpose of vesting such extension in the said companies ; that this was the bill before the Committee ; that the Brighton Company, for reasons best known to themselves, had backed out of the agreement, and did not wish the bill to be proceeded with, contending that as they had withdrawn from it, the South Western Company had no right to go on with it alone.

Mr. *Burke*, contra, for the Brighton Company, submitted that the agreement was only to be carried out if the South

1846. Western Company afforded the Brighton Company certain facilities on other parts of their line near London; that the South Western Company now refused to grant these facilities, and the Brighton Company therefore were unwilling to proceed with the bill.

The Committee decided on not proceeding with the bill under the circumstances.

GROUP 48.

*Monmouthshire Railway Bill.**Taff Vale Railway Bill.*

WILLIAM ALDAM, Esq., M.P. FOR LEEDS, CHAIRMAN.

Freighters on an existing line, as such have no *locus standi* against a scheme—The *locus standi* of landowners is lost on the promoters striking out of their bill the clauses authorising them to take opponents' land—*Locus standi* of Canal Company, on the ground of unequal competition—Petition in opposition to scheme must distinctly state the grounds of objection—A landowner has a *locus standi* on the clause fixing the tolls to be taken under the bill, but the tolls payable under a former Act cannot be revised without notice, or an express instruction from the House.—*Locus standi* of Canal Company.

Monmouthshire Railway Bill.

Sir *Thomas Phillips* opened the case in support of the *June 29.* preamble, which was declared to be proved.

Amongst the petitions against the bill, was one from ^{Freighters'} *locus standi.* Mr. Routh and others, freighters on the existing tram-roads of the Company, seeking for a reduction of the tolls thereon.

Mr. *Laing* objected to the appearance of these petitioners, and contended that, as freighters, they had no *locus standi* against the bill.

Mr. *Whateley*, Q. C., with whom was Mr. *Smythies*, in support of their right to appear.

The Committee resolved that the petitioners, as freighters, have no *locus standi* before the Committee.

Mr. *Smythies* then submitted that, appearing as they did ^{Landowners'} *locus standi.* for the New British Iron Company, the proprietors of the

1846. Blaenarvon New Furnaces, and others, whose land the promoters proposed taking, they had a *locus standi*, and were entitled to be heard on the toll clauses.

Sir *Thomas Phillips* then said, that in order to remove the opposition of these interests, he would strike out of the bill the powers authorising the construction of any branches of the scheme over the land of these petitioners, or he would insert a proviso that the promoters would not take any land belonging to the petitioners without their consent; this, he contended, would disentitle the petitioners further to oppose the bill.

Mr. *Whateley*, Q. C., insisted that he was still entitled to oppose the bill; and he stated that he should show that the line could not be made without acquiring the petitioners' land.

The Committee determined that Mr. *Whateley* could not be heard, but that they would themselves require the promoters to prove to the Committee that the line could be made; and for this purpose the engineer was called and examined by the Committee.¹

Taff Vale Railway.

Locus standi of Canal Company competition.

Mr. Serjt. *Wrangham* opened the case in support of the bill, which was for an extension of an existing line.

Mr. *Highton*, the engineer, having been examined,

Mr. *Crowder*, Q. C., who with Mr. *Saunders* appeared for the Glamorganshire Canal Company, rising to cross-examine this witness,

Mr. *Austin*, Q. C., objected that the Canal Company had no *locus standi*, no part of their land being intended to be touched by the proposed extension; and he submitted that, on the ground of competition, they had no *locus standi*.

¹ See *anti*, pp. 88, 97.

Mr. Crowder, Q. C., *contra*, contended that the bill would compel the Marquis of Bute to lower the dues of the dock, which was the common outlet of the canal and railway, to the Railway Company, below those charged to the Canal Company.

1846.

The Committee determined, that Mr. Crowder having stated that he believed the bill would perpetuate an agreement between the Marquis of Bute and the Taff Vale Railway Company, binding the Marquis to charge lower rates on the minerals and goods shipped from the railway than those he is entitled to charge on the same articles shipped from the canal, the Committee is of opinion that as such an arrangement might establish an unequal competition against the Glamorganshire Canal Company, that the said Canal Company has a *locus standi* before the Committee.

Mr. Serjt. Kinglake, who appeared for the Aberdare Railway Company, attempting to cross-examine a witness,

Sir Thomas Phillips objected, and contended that he had no *locus standi* before the Committee, inasmuch as the petition did not distinctly specify the grounds of objection in accordance with the 66th Standing Order.

July 2.
Petition
grounds of
objection.

Mr. Serjt. Kinglake, *contra*.

The Committee determined that the Aberdare Railway Company had sufficiently stated their grounds of objection, and had a *locus standi* before the Committee.

In going through the clauses respecting tolls, Mr. Smythies contended that those authorised to be taken by the former Acts ought to be revised, and that the landowners for whom he appeared were entitled to be heard on that subject.

Tolls, revision, *locus standi*.

Sir Thomas Phillips, *contra*, submitted that a landowner was, as far as tolls were concerned, no more interested than any of the public, and that the Committee had no power to revise existing tolls, as no notice thereof had been given, nor were there any instructions from the House to the Committee.

1846.

Mr. *Smythies* replied that a landowner might show by any means that the advantage afforded to the public was not a sufficient return for the compulsory power to take land; and that the 16th Standing Order as to notice, did not prevent the Committee from imposing a reduction of tolls on the promoters, who would never give notice of a reduction of their own tolls.

The Committee decided that a landowner might be heard on the clause fixing the tolls to be taken under the bill, but that the tolls of the former Act could not be revised without notice, or an express intimation from the House.

Locus standi of Canal Company.

N.B.—In the Lords' Committee, this bill on recommittal was opposed by the Glamorganshire Canal Company, when the Committee determined that they had no *locus standi*.

GROUP 59.

Blackburn and Preston and East Lancashire Railways amalgamation.

Huddersfield and Sheffield and Manchester and Leeds Railways amalgamation.

Liverpool and Bury and Manchester and Leeds Railways amalgamation.

Manchester and Leeds extensions.

Manchester and Leeds and Leeds and Bradford amalgamation.

Sheffield, Ashton-under-Lyne, and Manchester.

Manchester, Bolton, and Bury Canal and Railway, and Manchester and Leeds Railway amalgamation.

Lancaster and Preston Junction Railway.

Sheffield, Ashton-under-Lyne, and Manchester Railway (Peak Forest and Macclesfield Canal Purchases).

Lancaster and Carlisle and Lancaster and Preston Junction Railways amalgamation.

EDWARD BULLER, Esq., M.P. FOR STAFFORD,
CHAIRMAN.

On an amalgamation bill the individual shareholders have no *locus standi* against it—Carriers' *locus standi* against amalgamation bill—Proprietors of canal navigation have no *locus standi* against an amalgamation bill, on the ground of injury to traffic, either on the preamble or the clauses—Coal proprietors' *locus standi*—The Committee will not pass an amalgamation bill unless all the parties to it consent, though there be an agreement between them that they will amalgamate.

Liverpool and Bury and Manchester and Leeds Railways amalgamation Bill.

THIS was a bill for the amalgamation of the Liverpool June 24. and Bury, and Manchester and Leeds Railways.

1846.

Shareholders' *locus standi*.

Mr. *Hope* applied, on the part of certain shareholders in the Liverpool and Bury Company, who were dissentients from the proposed amalgamation, for an order calling on the directors to produce for inspection the books of the Company, in order to ascertain whether there was a *bonâ fide* assent of the shareholders to the amalgamation.

Mr. *Laing*, for the promoters, objected on the general ground that shareholders had, under no circumstances, a right to be heard against a bill promoted by their own Company; that the petition for the bill must be presumed to speak the sense of the majority; if not, the remedy was in their own hands by injunction in the Court of Chancery; but, if so, it was an incident to joint stock companies of this sort, that the minority should be bound by the majority.

It was admitted that this rule applied in the case of an application for a new line or extension; but Mr. *Hope* contended that there ought to be an exception in the case of amalgamation bills, and cited a precedent of the Midland Amalgamation Bill, when a dissentient shareholder had been heard.

Mr. *Laing* replied, that the case of amalgamation was stronger than any other against the right to be heard, since it was avowedly a mere question of pounds, shillings, and pence, in which the sense of the majority ought to prevail.

The Committee decided that the petitioners had no *locus standi* before them.

Mr. *Laing* then opened the case of the promoters, including in his address the cases of the Liverpool and Bury and Manchester and Leeds; and the Manchester and Bolton and Bury Canal and Railway, and Manchester and Leeds Amalgamation Bills, and called evidence in support thereof.

Carriers' *locus standi*.

Mr. *Lowndes*, Q. C., claimed to be heard on behalf of Messrs. Jackson, carriers by the Mersey and Irwell Canal, against the preamble. The proposed amalgamation, he

contended, would destroy the water carriage, and give a monopoly to the Manchester and Leeds Company.

1846.

Mr. *Laing* contended that he had no *locus standi*, as against the preamble.

The Committee decided that he had no *locus standi* to be heard against the preamble, but might be heard upon the clauses.

The preamble of the Liverpool and Bury and Manchester and Leeds Railways Amalgamation Bill was then declared to be proved.

Mr. *Forsyth* then claimed to be entitled to oppose the Manchester, Bolton, and Bury Canal Navigation and Railway, and Manchester and Leeds Railway Amalgamation Bill, on the part of the proprietors of the Mersey and Irwell Canal Navigation. His ground of opposition was, that the existing Acts of Parliament under which the Manchester, Bolton, and Bury Canal Company exercised its powers, had contemplated its independent existence, and in that view had provided for mutual concessions and arrangements between it and the Mersey and Irwell Navigation Company, in which the latter had acquiesced; but which would materially prejudice its interests if the proposed amalgamation were carried into effect. He contended that the Manchester, Bolton, and Bury Canal Company would thereby be rendered a competitor with the Mersey and Irwell Navigation Company for traffic, and would have a direct interest in diverting traffic from the latter.

Locus standi, proprietors of canal.

Mr. *Laing* contended that Mr. *Forsyth* had no *locus standi*.

The Committee decided that he had no *locus standi* before them then, but that he might appear upon the clauses.

The preamble of the bill was then declared to be proved.

In going through the clauses of the Liverpool and Bury, &c. Bill, Mr. *Lowndes*, Q.C., claimed to be heard on behalf of the proprietors of the Mersey and Irwell Canal Navigation.

1846. Mr. *Laing* objected to his appearing, and contended that any supposed injury to traffic would not give him a *locus standi*.

The Committee determined that the Mersey and Irwell Canal Company, petitioning on the ground of injury to their traffic, have no *locus standi* before the Committee.

June 26.
Coal proprietors' *locus standi*.

In going through the clauses of the Manchester, Bolton, and Bury, &c., Bill, Mr. *Cross* claimed to be entitled to address the Committee for certain coal proprietors, petitioners against the bill.

Mr. *Forsyth* submitted that Mr. *Cross* had no *locus standi*, on the ground that the petitioners had no interest distinct from the public, which was that of using the canal as a means of transit.

The Committee allowed the objection.

Lancaster and Carlisle, and Lancaster and Preston Junction Railways Amalgamation Bill.

Amalgamation bill ;
consent of all
parties necessary.

Mr. *Selwyn*, with whom was Mr. *Hope*, opened the case of the promoters. The object of the bill was to carry out an agreement made between the two companies in 1844, providing for a prospective amalgamation.

Mr. *Baines*, Q. C., appeared to oppose the bill on behalf of the Lancaster and Preston Railway Company.

Mr. *Willcock*, for the proprietors of the Lancaster and Preston Canal.

The Committee determined that it was impossible that they could pass this bill, unless the companies would consent, as it was not their province to enforce an agreement entered into between two companies.

The bill was then withdrawn.

GROUP 54.

Midland (Burton-on-Trent to Nuneaton and Branch) Bill.
London and Birmingham (Coventry to Nuneaton Extension)
Bill.

ALEXANDER BANNERMAN, Esq., M.P. FOR
 ABERDEEN, CHAIRMAN.

Locus standi of proprietors of canal—A petition complaining of the returns under Mr. Duncombe's resolutions, referred by the House to the Committee, must be accompanied by instructions from the House, before the Committee can inquire into the allegations of the petition.

Midland (Burton-on-Trent to Nuneaton and Branch) Bill.

BEFORE this case was opened Mr. *Hildyard*, Q. C., who, with Mr. *Austin*, Q. C., Mr. *Talbot*, Q. C., Mr. *Hope*, Mr. *Daniel*, and Mr. *Macaulay*, appeared for the promoters, objected to the appearance of Mr. Serjt. *Allen* for the Company of proprietors of the Coventry Canal, as having no *locus standi* before the Committee.

May 20.
 Canal pro-
 prietors' lo-
 cus standi.

The ground upon which Mr. Serjt. *Allen* claimed to be heard was, that under the Ashby-de-la-Zouch Canal Act (1793), the Coventry Canal Company were entitled to certain compensation tolls upon tonnage of goods, &c., passing from the Ashby into the Coventry Canal, and one of the objects of the bill was to authorise the Midland Railway Company to purchase the Ashby Canal, and the Coventry Canal Company anticipated that the effect and consequence of the bill would be that the Ashby Canal traffic would be diverted to the intended railway, and consequently the Coventry Canal compensation tonnage diminished, if not destroyed.

1846. The Committee determined that this was not such an interest as to entitle the Company to oppose the preamble ; but they were heard upon the clauses, and clauses were introduced into the bill requiring the Midland Railway Company to keep open the canal.

*London and Birmingham (Coventry to Nuneaton Extension)
Bill.*

June 15. The petition of William A. Gardner, alleging that the
Petition on returns un- returns made in pursuance of the Resolutions of the 30th
der Mr. of April were incorrect and untrue, having been read, and
Duncombe's resolutions ; the petition having been referred by the House to this Com-
instructions mittee, they resolved—
as to order of reference.

That the House not having appended any instructions to the order of reference of the petition of William Atkinson Gardner, presented 12th June, the Committee does not consider itself competent to enter upon the allegations of such petition.

A similar course was adopted by this Committee in the case of the direct Birmingham and Leicester Railway Bill.

GROUP 46.

Newcastle-upon-Tyne and Carlisle Branches Railway Bill.
*Newcastle-upon-Tyne, Edinburgh, and direct Glasgow Rail-
way Bill.*

T. W. BRAMSTON, Esq., M.P. FOR SOUTH ESSEX,
CHAIRMAN.

A petition must state in its heading whether it be for or against the bill ; and unless it complies with this requisition, counsel will not be heard upon it.

Mr. *Forsyth* proposed to cross-examine on behalf of the *June 18.*
Newcastle Infirmary.

Mr. *Knowles*, Q. C., for the promoters, objected to his being heard, on the ground that the petition of the subscribers, &c., did not comply with Standing Order 111 *a* ; because it did not state in the heading, after the short title of the bill, whether the petition was for or against the bill.

The Committee Clerk said other Committees had held this objection fatal ; and the Committee accordingly held that Mr. *Forsyth* could not appear for the Infirmary.

Subsequently the Committee Clerk received an order from the Speaker to examine all the petitions.

Several were found defective in the above particular, and the Committee refused to hear counsel on them.

1846.

GROUP 7.

*Edinburgh and Northern Railway (Strathearne Deviation)
Bill.*

Edinburgh and Northern Railway (Dunfermline Branch) Bill.

ROBERT PALMER, Esq., M.P. FOR BERKSHIRE,
CHAIRMAN.

Under the second particular of Mr. Duncombe's resolutions, it is sufficient for an existing company to furnish the names of the existing committee-men and officers—Returns under Mr. Duncombe's resolutions—The promoters must put in the returns, and give copies to the opponents of the bill, who, if they wish to dispute their accuracy, must petition the House for leave to be heard against the returns—The Committee will not inquire into the sufficiency of the parliamentary contract.

*Edinburgh and Northern Railway (Strathearne Deviation)
Bill.*

April 27.
Duncombe's
resolutions.

THE object of this bill was to enable the Company to make a deviation in their line; on going through Mr. Duncombe's resolutions, the promoters contented themselves on the second resolution, by furnishing the names of their existing committee-men and officers.

Mr. *Patton*, on behalf of the opponents of the bill, submitted that the promoters were, under this resolution, bound to furnish the names not only of their present committee and officers, but those of their past.

Mr. Serjt. *Bellasis*, on behalf of the promoters of the bill, contended that they had complied with the resolution, particularly as their bill was not for the formation of a new line, but to enable them to deviate from a line which they had powers to construct.

The Chairman consulted the Speaker, and on his return 1846.
the Committee decided that the promoters might proceed
with their bill.

*The Edinburgh and Northern Railway (Dunfermline
Branch).*

In compliance with Mr. Duncombe's resolutions, the pro- *May 4.*
Duncombe's
resolutions.
motors put in the returns therein specified, and called the
Secretary of the Company to prove them.

Mr. *Whateley*, Q. C., on behalf of certain petitioners,
proposed to cross-examine the secretary as to the accuracy
of these returns.

Mr. *Clerk*, for the Company, objected to his being allowed
to do so, as there was no petition before the Committee
impugning the accuracy of the returns.

On the next meeting of the Committee, the Chairman
stated that he had consulted with other chairmen of com-
mittees, and Mr. Duncombe himself, and had also taken the
advice of the Speaker; and the following was to be the
course of practice :—

The promoters to put in these returns, and give copies
to the opponents of the bill, who should then, if they wished
to dispute their accuracy, petition the House for leave to be
heard against these returns.

Among other objections taken by Mr. *Whateley*, one was Subscription
contract.
to the validity of the subscription contract.

Mr. *Clerk*, contra, and Mr. *Webster*, Parliamentary
Agent.—The subscription contract is not included in the
resolutions of Mr. Duncombe, that being already examined
into before the Standing Order Committee. No fresh sub-
scribers' agreement has been entered into in this case; the
requisite capital is to be raised by new shares under the

1846. Act, which shares the several subscribers have entered into personal obligations with the Company to take ; and the parliamentary contract has been signed by some of the directors on their behalf for the whole amount.

The Committee decided that they could not inquire into the parliamentary contract.

1846.

GROUP 30.

*Cambridge and Oxford Railway Bill.**Aylesbury and Thame Junction Railway Bill.*

LORD CHARLES WELLESLEY, M.P. FOR SOUTH
HAMPSHIRE, CHAIRMAN.

The Counsel for a competing line is not confined in his cross-examination to that portion of the other line which is parallel to his own, but may extend his cross-examination to the whole line—Traffic evidence—Counsel must confine their examination to lines in progress or before Parliament.

Cambridge and Oxford Railway Bill.

THE object of this bill was the construction of a line from Cambridge to Oxford. In the course of the cross-examination of a witness called on behalf of the promoters, Mr. *Calvert*, with whom was Mr. *Wells*, on behalf of the Aylesbury and Thame Railway Company, who were applying for powers to construct a line running for a short distance parallel with that of the Cambridge and Oxford, proposed to cross-examine him with reference to the traffic upon the portion of the line beyond that for which the two lines ran parallel.

May 1.
Competing
line.
Cross-exa-
mination.

Mr. Serjt. *Clarke*, who, with Mr. *Waddington* and Mr. *Hope*, appeared for the promoters, objected on the ground that the two lines could not be considered as competing with each other beyond that space for which they ran parallel.

The Committee decided that inasmuch as the Aylesbury and Thame line was a competing line with the Cambridge and Oxford, Mr. *Calvert* had a right to cross-examine as to

1846. traffic upon any part of that line, and that he was not confined to such portions as ran parallel with the Aylesbury and Thame line.

May 4.
Cross-examination, rebutting evidence.

Mr. *Calvert*, on behalf of the Aylesbury and Thame Railway Bill, applied to be allowed to cross-examine a witness (Mr. *Pilch*) called by the promoters to speak to the traffic, and who had been examined in chief at a previous sitting of the Committee, and also to produce rebutting evidence on the subject of traffic.

The Committee decided that Mr. *Calvert* should proceed to cross-examine Mr. *Pilch*.

Traffic evidence.

Mr. Serjt. *Clarke* applied to the Committee to know whether further evidence on the subject of traffic should be given.

The Committee determined that counsel be directed to proceed.

Aylesbury and Thame Junction Railway Bill.

Examination, course of.

Mr. *Calvert* opened the case on the part of the promoters. Mr. R. Stephenson, civil engineer, was called on behalf of the promoters.

Mr. *Calvert* proceeded to examine Mr. Stephenson as to certain projects not before Parliament.

Mr. Serjt. *Clarke*, on behalf of the Cambridge and Oxford Bill, objected to the proposed line of examination.

The Committee decided that counsel must confine their examination to lines in progress or before Parliament.

GROUP 55.

Manchester, Sheffield, and Midland Junction Railway Bill.

THE RIGHT HON. F. SHAW, M.P. FOR DUBLIN
UNIVERSITY, CHAIRMAN.

The Committee will not entertain a question as to the validity of the subscription contract.

THE case for the bill being closed, the landowners' opposition was entered upon.

Mr. *James*, on behalf of certain landowners who had *May* 19. petitioned against the bill, objected to the validity of the subscription contract, as there was an agreement between this and another Company for their mutual amalgamation, which vitiated the contract deed. He contended further, that under Mr. Duncombe's resolutions (of April 30th) he was at liberty, as counsel for a landowner, to object to the validity of the contract deed.

Mr. *Talbot*, Q.C., with whom were Mr. Serjt. *Wilkins*, Mr. *Overend*, and Mr. *Nesfield*, contra.

The Committee decided that they would not enter into the question of the validity of the subscription contract. .

1846.

GROUP 25.

Eastern Union and Harwich Railway Bill.
Harwich and Eastern Counties Junction Railway Bill.
Maldon, Witham, and Braintree Railway Bill.

W. LASCELLES, Esq., M.P. FOR WAKEFIELD,
 CHAIRMAN.

Navigation Company held to have no *locus standi* on ground of competition—Counsel for landowner confined to injury done to his client's property—Opinion of Admiralty, evidence of—Interference with supply of water to brewery, sufficient ground for being heard against preamble—Line defeated in Commons held to have *locus standi* before Committee of Lords.

Maldon, Witham, and Braintree Railway Bill.

March 24. Mr. James opened the case.

Mr. Ransom was called and examined by Mr. Rodwell.

Mr. Forsyth, proposing to cross-examine the witness on the petition of the Company of proprietors of the Chelmer and Blackwater Navigation,

Mr. James objected, and contended that the Navigation Company had no *locus standi* before the Committee, as they could not be heard to oppose on the ground of a competition of traffic, and their petition did not set forth in it that they would sustain any injury as landowners.

Mr. Forsyth in answer.

Mr. James in reply.

*Locus
standi.*

The Committee decided that the Navigation Company had no *locus standi* before the Committee, as their petition did not allege that the soil and property of the Chelmer and Blackwater Navigation would be injured by the proposed line.

March 25. Mr. Glasse, on behalf of Captain Byron, commenced his

opposition to the bill. He was proceeding with the examination of witnesses in support of the petition, for the purpose of impugning the traffic testimony of the promoters, and the sufficiency of their estimate; but the Committee refused to receive the evidence, and desired counsel to confine himself to the particular injury done to his client's property.

1846.
Land-
owners',
grounds of
opposition.

Harwich and Eastern Counties Junction Railway Bill.

Captain John Washington, one of the Commissioners of the Harbours of Refuge, was called on the part of the promoters. In the examination in chief of this witness it was elicited from him that the competing line (the Eastern Union) would for a certain part of its course be open to attack at high water from any enemies' steamers that, in the event of a war, might run up the Stour, though he judged it highly improbable that any such steamer would ever find itself in a position to make the attack.

In his cross-examination by Mr. *Ogle*, on behalf of Mr. Garland, an opposing landowner, the witness was asked whether it would not be desirable, in the event of the enemies' steamers running up the river, to have a railway that might bring cannon to play upon the steamers, (the object of the question, of course, being to show the counterbalancing advantage possessed by the Eastern Union in this respect over that before the Committee). The Chairman, however, here interfered, and stated the opinion of the Committee to be, that as Mr. *Ogle* appeared for a landowner, and as the merits of the competing line would be brought before the Committee in due time, he must confine himself to the particular damage sustained by his client.

Captain Richardson, who had been one of a deputation from the promoters to the Board of Admiralty, was called

March 26.
Opinion of
Admiralty.

1846. as a witness on behalf of the promoters, to state the opinion expressed by the Admiralty at the interview.

Mr. *Rodwell* objected to the reception of this evidence, as the proceedings before the Admiralty had been entirely ex-parte; the Eastern Union plans never having been submitted to their consideration. He contended also, that if any evidence of the intentions of the Admiralty was to be admitted, some official person ought to be called.

Mr. *James* then applied to the Committee either to request the attendance of Captain Beaufort, from the Admiralty, or else for the Chairman to communicate with that Board.

The Chairman stated that he would send and request the attendance of Captain Beaufort before the Committee.

Subsequently the Chairman received a communication from Captain Beaufort, stating, that being the confidential adviser of the Board of Admiralty, he had been uniformly prohibited by them from giving evidence.

Mr. *Cockburn* then applied to the Chairman to put himself in communication with the Board of Admiralty; which the Chairman accordingly did.

Eastern Union and Harwich Railway and Pier Bill.

March 30.
*Locus
standi.*

At the close of the case of the promoters of the above line,

Mr. Serjt. *Bellasis* opened the case of Mr. Alston, an opposing landowner.

Mr. Alston, it appeared, was a brewer in an extensive way of business at Maningtree, and his case in substance was, that the supply of water to his brewery would be most injuriously interfered with, both as to quantity and quality, by the Railway.

Mr. *Rodwell*, on behalf of the Company, contended that

it was not a case in which he (Mr. Alston) could be permitted to oppose the preamble of the bill, but was a question for clauses or compensation, and referred the Committee to the Lands Clauses Consolidation Act.

1846.

Mr. Serjt. *Bellasis* contended that he had a right to appear against the preamble of the bill, as it was a case to which the Lands Clauses Consolidation Act would not apply, and it was beyond the reach of compensation.

The Chairman stated that the Committee were of opinion that Mr. Serjt. *Bellasis* was at liberty to proceed.

Ultimately the petitioner's opposition was withdrawn, it being agreed between the parties that the necessary clauses should be introduced into the bill for his protection.

The preamble of the Eastern Union and Harwich Junction Railway Bill was afterwards found not proved, and that of the Harwich and Eastern Counties Junction proved.

The Harwich and Eastern Counties Bill having been taken up into the House of Lords and committed, the promoters of the Eastern Union and Harwich Junction line appeared as petitioners against it.

It was objected, on behalf of the Eastern Counties line, that the Eastern Union having been defeated in the Commons, could no longer be regarded as an existing line, and, consequently, had no *locus standi* before the Committee.

Defeated
line, *locus*
standi.

The Committee (Lord Fitzwilliam, chairman), decided that the Eastern Union might be heard against the rival line. The public interests required that the Committees of the Upper House should exercise an independent judgment on the merits of the schemes submitted to them, and this they could not do, if because a bill had been thrown out in the Commons, they were therefore to be precluded from entertaining it in the character of an opposing line.

1846.

GROUP 25.

Colchester, Stour Valley, Sudbury, and Halstead Railway Bill.

A competing line not entitled to be heard in opposition, where not included in same group, and no petition presented—It must appear on the petition of Commissioners acting under an Act of Parliament, that their petition has been originated according to the provisions of their Act—An allegation in petition of landowner, that the line will be injurious to his property, is sufficiently specific—Shareholders in Navigation Company, as such have no *locus standi*.

April 1.
Rival line,
locus
standi.

Mr. *Austin*, Q. C., on behalf of the promoters, objected to the appearance of the Chelmsford and Bury Railway (a rival line) against the bill before the Committee, it having been included in another group, and the promoters not having presented a petition against this bill.

Mr. Serjt. *Wrangham*, in support of his right to appear.

Mr. *Austin*, in reply.

The Committee determined that the Chelmsford and Bury line had no right to appear against the present bill.

Petition of
Navigation
Commis-
sioners.

Amongst the petitions against the bill, was one purporting to be a petition of the Stour Navigation Commissioners.

Mr. *Mellor* objected that their Act required certain notices of meetings before any resolutions could be adopted by the Commissioners, and that their petition did not show that it had been adopted at a meeting properly called pursuant to their Act.

The Committee decided that the Commissioners could not oppose the bill, it not appearing that their petition had originated at a meeting, as required by their Act of Parliament.

April 2.

Mr. *Bruff*, the engineer, was called and examined by Mr. *Mellor*, on behalf of the promoters.

Mr. *James*, rising to cross-examine the witness on the petition of certain landowners against the bill, Mr. *Mellor* contended that the petitioners had no *locus standi*, inasmuch as no specific or particular grounds of objection were stated in the petition ; it merely alleging that the line would be injurious to their property.

1846.

Allegations
in petition of
landowner.

The Committee decided that the petition was sufficiently specific.

A petition of certain of the shareholders in the Stour Navigation being called on, Mr. *Mellor* objected, that by the Act of Parliament they could only be represented by the Commissioners, and had, in their capacity of shareholders, no *locus standi*.

Share-
holders'
locus
standi

Mr. *Bacon*, for the shareholders, contended that they had a right to appear.

The Committee were of opinion that they had no *locus standi*.

1846.

GROUP 18.

The Somersetshire Midland Railway Bill.

E. B. DENISON, Esq., M.P. FOR YORKSHIRE (W. R.),
CHAIRMAN.

Mr. Duncombe's resolutions—Course to be pursued in examining returns, &c.—Evidence as to errors in sections may be gone into before Committee on Bill, where it goes to the extent of showing that the line cannot be constructed without a greater amount of deviation than what the law permits.

May 5.
Duncombe's
resolutions.

THE Chairman stated, that he had had a communication with the Speaker, who had stated that the tables put in, in compliance with Mr. Duncombe's resolutions, ought to be laid before the Committee; that they were, of course, competent to examine the parties, in order to satisfy their minds that those tables were correct; that the counsel for the bill were at liberty to assist them in their inquiries, but that the counsel for the opponents were not at liberty to cross-examine, without a petition having been presented to the House containing allegations that the tables were false, and praying that they might be allowed to cross-examine the parties; that it was contrary to the rules of the House to allow parties to appear in opposition, without special leave given to them by the House, though, perhaps, they might suggest points to the Committee.

Errors in
sections.

Mr. Charles Hutton Gregory was called and examined by Mr. *Merewether* on the part of the opponents of the bill. In the course of his examination the witness was asked as to the existence of an error in the section of a particular part of the line.

Mr. *Gurney*, Q. C., objected to this evidence being gone

into, as being a Standing Order point, and stated that in the Bridgewater and Taunton Canal Committee, and Liverpool, Manchester, and Newcastle Railway Committee, it had been so decided; and contended, that even if the inaccuracies alleged were proved they would not prevent the making of the line, because all that the recent Act of Parliament required was, that the promoters should not deviate more than five feet from the datum line, and that instead of a cutting the promoters might put an embankment, or instead of an embankment a cutting.

1846.

Mr. *Deedes* was heard on the same side.

Mr. *Merewether* contended that, at all events, the opponents were entitled to give this evidence, whatever the effect of it might be afterwards; and further, contended that this was not a Standing Order point, because it arose upon that which was not a resolution of the House of Commons, but the law of the land, a statute having passed prescribing the limits within which a Railway Company must construct their line; even if this bill were proved, the promoters could not carry the line into effect; he referred to the case of the Brighton and Bognor line, in which the opponents were allowed to prove an inaccuracy in the plans and sections.

Mr. *Gurney* was heard in reply.

The Committee resolved, that the opponents of the bill had had an opportunity since the 30th of November (the day of deposit) of inspecting the plans and sections lodged in the Private Bill Office, and with the parish officers; that they ought to have stated any objections before the Standing Orders Committee: if they did not state such objections it was their own fault; if they did, the conclusion was, that the Standing Orders Committee had advised the House to let the bill come into Committee on the merits.

Mr. *Merewether* then applied to the Committee to be

1846. permitted to go into the examination, to show that in part, the line could not be constructed upon the sections as deposited, nor within such deviations from them as the Act of Parliament permitted.

The examination of the witness with this view was then resumed. Eventually the preamble of the bill was found not to be proved.

GROUPS 49 AND 51.

North Wales Railway Bill.

THE RIGHT HON. CHARLES WOOD, M.P. FOR HALIFAX,
CHAIRMAN.

A petitioner cannot be heard by counsel unless the order of reference distinctly direct that he may be so heard—A shareholder in a scheme has no *locus standi* against it.

ON the petitions being called over, a petitioner, Mr. Archer, who appeared in person, stated to the Committee that there was an informality in the order of reference. The petition prayed that Mr. Archer might be heard by himself, counsel or agent, against the bill; but the order of reference directed that the petitioner might be heard "by himself or his agent," omitting the word "counsel." He submitted that this was a mistake, and a mere irregularity of the clerk in drawing up the order; and as counsel were agents, he submitted that he ought to be allowed to be heard by counsel.

June 9.
Petition,
hearing,
order of
reference,
counsel.

The Chairman stated that the practice was different, and that the petitioner could not be heard by counsel without an order to that effect.

Mr. Bacon, who appeared for the promoters, then objected to the petition of Mr. Archer, and submitted that, as a shareholder, he had no *locus standi*.

Mr. Archer, *contra*.

The Committee decided that the petitioner had no *locus standi* before them.

The bill being thus unopposed, was referred to the Chairman of Ways and Means, and the Members ordered to bring in the same.

1846.

GROUP 39.

*Oldham, Liverpool, Manchester, and Birkenhead Junction
Railway Bill.*

E. DIVETT, Esq., M.P. FOR EXETER, CHAIRMAN.

A Canal Company, which had agreed to sell to a rival company premises which would be affected by the proposed line, provided they could obtain an Act of Parliament enabling them to do so, but which they had not obtained—Held not to have lost their *locus standi*, but entitled to be heard as independent opponents.

June 24.
Locus standi of Canal
Company.

IN this case a question arose as to the *locus standi* of the Rochdale Canal Company as opponents.

The facts appeared to be as follows:—The Rochdale Canal Company were owners of premises over which the proposed railway was to pass; in 1845, they had entered into a contract (which was proved before the Committee) to sell their canal to the Manchester and Liverpool Company, provided they could obtain an Act of Parliament for the purpose. It appeared that a bill had been prepared for that purpose, but which had failed to pass the Standing Orders (1845-6), and that the Rochdale Canal Company were bound to renew their endeavour for the purpose in the ensuing Session.

The Manchester and Liverpool Company were opponents of the bill.

Mr. Serjt. *Wrangham* objected, on the part of the promoters, that this evidence established such a connection between the Rochdale Canal Company and the Manchester and Liverpool Company, that the former could not be heard as independent opponents.

Mr. *Merivale*, on the part of the Rochdale Canal Company, contended that, as the passing of the bill for the amalgamation could only be regarded as a contingency, notwithstanding the agreement of the parties, the Company had interests of its own to protect. 1846.

The Committee decided in favour of the Rochdale Canal Company.

1846.

GROUP 9.

Caledonian Railway (Glasgow Termini and Branches) Bill.

LORD WORSLEY, M.P. FOR LINCOLNSHIRE, CHAIRMAN.

Consent of Board of Admiralty being necessary, but not having been obtained by the promoters, case proceeded with *de bene esse*—Where, in order to obviate objection of Committee to steepness of gradients at a particular point of proposed line, promoters brought forward a plan for extending their line in a certain direction beyond the limits of deviation, which was approved of by the Committee : Held that they must present a petition to the House, praying to be allowed to extend their line in the manner proposed, and go again before the Standing Orders Committee.

May 7.

THE Chairman this day stated that an answer had been received from the Board of Admiralty to the communication of the Committee, on the subject of the passage of the Clyde by the promoters ; and that, though the Board could not give a definite opinion on the subject, not having received any plans, &c., from the promoters, yet that, as then advised, they refused their consent to the Railway passing the Clyde in the manner proposed.

Examina-
tion *de bene*
esse.

Under these circumstances, Mr. *Hope*, on behalf of the promoters, expressed their willingness to proceed with their case *de bene esse*.

The Chairman said that he thought this would be the best way, as it would save expense.

May 8.
Additional
provision.

The Committee this day having heard Mr. *Andrews*, Q. C., against the line, and Mr. *Forsyth* in reply, resolved that (as far as regarded a junction proposed by the promoters with a joint line of two other Companies, the Glasgow and Greenock, and the Glasgow and Ayr Railway Companies) they could not sanction it on account of the steepness of the gradient ; but, considering the whole

scheme to be one of great importance, they were willing to give the promoters until the ensuing Monday to come to an arrangement with the other parties for carrying out that part of their scheme in a less objectionable manner. 1846.

Mr. *Forsyth*, this day, on behalf of the promoters, stated *May 11.* that they were ready to undertake to make the junction with the joint line at a gradient of 1 in 100, and pressed for the opinion of the Committee as to whether such a mode of junction would obviate the objection.

Mr. *Andrews*, Q. C., contra, contended that it was exceedingly inconvenient to be called on to meet a case that was not fully developed; and he therefore trusted that the Committee would force the promoters to state at once their alternative plans.

The Committee stated that they would not determine whether a gradient of 1 in 100 was objectionable, without hearing the objections on the part of the opponents of the bill, and that they must have the whole case before them.

Mr. *Forsyth* said he first proposed to effect a junction at a gradient of 1 in 100; that he was ready to go into the alternative propositions afterwards, but he first wished to know the Committee's opinion upon the proposition already made.

The Committee thought it more satisfactory if Mr. *Forsyth* would state what he proposed, and then they would be in a better condition to judge.

Mr. *Forsyth* thereupon proceeded to state various alternative plans for effecting the junction, and getting rid of the objectionable gradient. One of these, and that which was finally adopted by the Committee, was to extend the line to the west of the intended point of junction, and go through Shields Bridge, making the requisite alteration therein.

It appeared, however, that there were no limits of devia-

1846.

tion marked on the promoters' plans westward of the point; and a question accordingly arose as to the feasibility of adopting this plan without infringing on the Standing Orders.

The Committee, after consulting the Speaker, announced that the promoters must present a petition to the House, praying to be allowed to extend their line in the manner proposed, and then go again before the Standing Orders Committee.

The Committee then adjourned till Tuesday, the 26th instant, for the purpose of allowing the promoters to make the necessary application to the House. Leave was afterwards given to the promoters to introduce such additional provision as the Committee on the bill should think fit; and eventually the preamble of the bill was declared to be proved.

GROUP 69.

*Eastern Counties (Wisbech to Spalding) Bill.**Wisbech, St. Ives, and Cambridge Junction Railway Bill.**Stamford and Spalding Railway Bill.**Lynn and Ely (March Extension) Bill.**Lynn and Ely (Spalding Extension) Bill.*

THE RIGHT HONOURABLE W. B. BARING, M.P. FOR
THETFORD, CHAIRMAN.

The case of a counter project will not be permitted to be set up under the guise of a landowner's opposition, though a landowner may show that the line submitted is not the best that might have been adopted—The fact of a party's name being inserted in the book of reference as owner of land, does not of itself give him a *locus standi*—Proprietor of navigation over which the line will pass, has not a *locus standi* against the preamble—Evidence in two lines being identical, permitted to be taken once for both lines.

Wisbech, St. Ives, and Cambridge Junction Railway Bill.

Mr. Talbot, Q.C., opened the case of the promoters.

On the cross-examination of a witness by Mr. Wells, who with Mr. Serjt. Kinglake appeared for certain landowners, he (the witness) was asked whether a line had not been projected by another Company, the London and York, from Huntingdon to Wisbech.

July 20.
Land-owners' opposition, line not the best.

Mr. Talbot objected to this course of examination, on the ground that the comparative merits of the proposed line and that of a defunct scheme could not be gone into. He also contended that a landowner could not discuss the merits of a suppositious project.

Mr. Wells, contra.

The Committee resolved, "That the Committee will not

1846. permit the case of a counter project to be set up under the guise of a landowner's opposition.

"It may, however, be a perfectly *bonâ fide* part of a landowner's case to show, that the line submitted to the Committee is not the best line, and that the promoters might have adopted a better.

"The Committee will watch the case of the landowner, to see that it is confined within the limits necessary for this purpose.

"The Committee think Mr. *Wells*' examination hitherto has been unobjectionable."

Locus standi, proprietor of navigation.

Amongst the opponents of the bill, was Sir Thomas Cullum, the proprietor of the River Ouse Navigation.

Mr. *Talbot* objected to Sir Thomas Cullum's opposition being further prosecuted, on the ground that his interest in the navigation was not such as to give him a *locus standi* against the scheme.

Mr. Serjt. *Kinglake* insisted on his right to be heard, and he produced the book of reference, in which the name of Sir Thomas was inserted as owner.

The Committee decided, after examining the book of reference, that this circumstance alone was not sufficient to give Sir Thomas Cullum a *locus standi*, and adjourned the case for the purpose of enabling Mr. Serjt. *Kinglake* to produce further evidence on the subject.

July 21.

Mr. Serjt. *Kinglake*, after calling witnesses in support of Sir Thomas Cullum's right of ownership over the towing-path and soil of the bed of the river, addressed the Committee, and contended, that even if the Committee did not consider that sufficient evidence had been adduced of actual ownership, Sir Thomas had such an interest in the navigation, as would give him a *locus standi* to oppose the bill, as the railway could not be made without spanning the river by a bridge, which would lessen the utility of the navigation.

W. J. Kinglake

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